

Lean Six Sigma for Law Firms

CATHERINE ALMAN MACDONAGH



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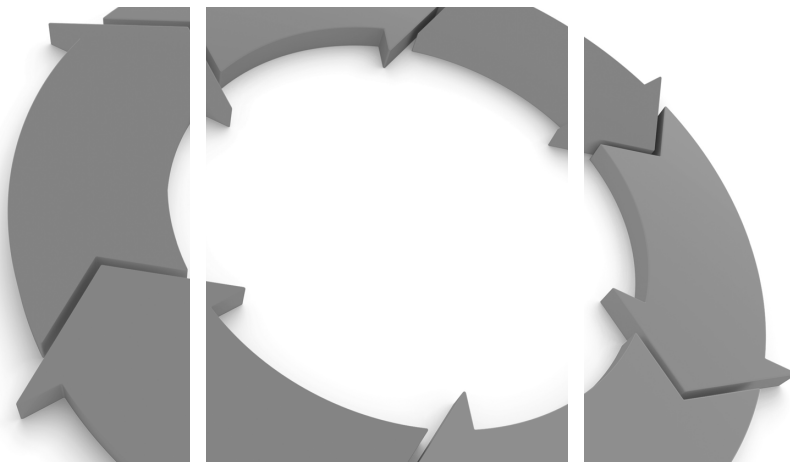
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Executive summary

THIS REPORT is a thought leadership piece that aspires to relate the foundational concepts and vocabulary of Lean and Six Sigma and reports on how they are currently being employed in a legal context.

All law firms, wherever they may fall on the process improvement continuum, will benefit from learning about the use of Lean and Six Sigma in a legal context. Whether your firm is just beginning to hear about process improvement and project management, has started to develop skills and undertake projects, or has a fully branded initiative based on Lean Six Sigma, this report is intended to serve as a resource.

At this point, many firms have already embarked on their continuous improvement journeys. Still, many firms remain at the opposite end of the spectrum and are just “beginning to think about starting”. Firms who have been waiting to find out how this is working for others will learn plenty from those who have gone before them. Some will be their direct competitors, driving them from a position of mere interest to necessity. Competitor firms may already have robust programs in place with cadres of skilled Lean and Six Sigma practitioners, a host of project managers, and dozens of completed projects backed by millions of dollars in improvement benefits.

In addition to discussions about Lean, Six Sigma, and other methodologies most helpful to those in the legal profession, this report will shine a light on firms that are already

employing process improvement approaches and tools. For every firm that has launched a marketing campaign around its activities or is profiled in this report, there are dozens of firms – small, medium, and large – that are quietly and seriously developing competitive advantages via process improvement.

Understandably, many firms are sensitive about the type and level of information they wish to share and make available in the marketplace. Others are using their successes as the cornerstone of their strategic plans and marketing efforts.

The point is that there is no single “right way” to do this work. The important thing is to begin to create a culture of continuous improvement in law firms. Why? Because when we do this work, we not only improve the process on which we are working, we also deliver greater value, efficiency, and predictability while increasing our quality and likelihood of successful outcomes. If that is not enough, keep this in mind: this is all done without tradeoffs; rather, it is a win-win for both the client and the firm.

I aim to accomplish several things in this report: 1) to explain what Lean and Six Sigma are; 2) to make the connection between Lean, Six Sigma, and project management; 3) to demonstrate the different ways in which Lean and Six Sigma may be employed in the legal profession; 4) to publish a preliminary collection of ideas, case studies, and legal examples for the first report of its kind on the topic of legal process improvement; and 5) to accelerate a

shift toward the applicability and acceptance of process improvement in the legal profession as significantly closer to the norm. The early adopters in this space have much to teach us.

In summary, this report is for those interested in learning about the different approaches to Lean/Six Sigma, where to get started, and what the results have been for those who have already tried it.

The idea is to facilitate the adoption of process improvement strategies in law firms by defining Lean and Six Sigma and then conveying how those concepts might apply in a practical sense to the legal space. This will help firms to answer the following questions, which they should ask themselves before embarking on any process improvement program, since the discussions, considerations, and decisions will be different for each firm:

- How can we use the methodologies and toolkits of Lean and Six Sigma?
- How do we make a decision about when and where to start?
- What are our drivers for employing process improvement?
- What are the specific applications, obstacles, and lessons learned from what others have tried?
- What results have been achieved – what kinds of improvements have been made and how do they translate into benefits?
- In what ways do the framework and outcomes of process improvement help us change the conversation we have with our clients, referral sources, and prospective clients?
- How do we use process improvement to deliver greater value to the firm and our clients?

- What competitive advantages can we develop by using Lean and Six Sigma at our firm?
- How do we structure a process improvement program?
- What's next?

As Jordan Furlong wrote, "Lawyers must accept and act upon a single new reality: we cannot continue to make a living in the law the way we used to... We must create sustainable cost advantages through adoption of technologies and processes."¹ Those who do so will not just survive but thrive. Those who ignore the opportunities that exist, right now, do so at their own risk.

Reference

1. Furlong, J. "You say you want a revolution" blog post, 20th December 2013; see www.law21.ca/2013/12/say-want-revolution.

About the author

CATHERINE ALMAN MACDONAGH, JD is a Legal Lean Sigma Black Belt and a certified Six Sigma Green Belt. A former corporate counsel, Catherine is well known for her thought leadership and successes as a law firm marketing and business development professional. Now a highly rated speaker and consultant, she works with professional services firms to create competitive advantages and organizational transformation through the development, planning, and implementation of innovative strategies, process improvement projects, and business development training and coaching programs.

Catherine is an adjunct faculty at Suffolk Law School and at George Washington University (Master's in Law Firm Management). She is also the Chief Enthusiasm Officer of The Legal Mocktail, an experiential networking training program, and has her own consulting practice, FIRM Guidance. She is a Co-Founder of the Legal Sales and Service Organization. Catherine is co-author of two books: *The Woman Lawyer's Rainmaking Game* and *The Law Firm Associate's Guide to Personal Marketing and Selling Skills*.

Catherine is a co-founder of the Legal Sales and Service Organization (LSSO). She served on the international board, as New England Chapter President and on many committee and task forces of the Legal Marketing Association (LMA). Honors and awards Catherine has received include: Elected Fellow, College of Law Practice Management, *Boston Business Journal's* 40 Under 40, two years on the prestigious MLF 50 (Marketing the Law Firm Top 50) List, and several Legal Marketing Association Your Honor Awards.

Catherine lives in Massachusetts with husband Colin, their children Alex and Sarah, and their two Havenese dogs, Abbie and Peaches.

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About the Legal Lean Sigma Institute

THE LEGAL Lean Sigma Institute, LLC (LLSI) is the first and only organization to develop and bring to law firms and legal departments a comprehensive set of process improvement (PI) and project management (PM) certification courses, training programs, and consulting services specifically designed for the legal profession. LLSI holds a registered trademark in the term Legal Lean Sigma®.

Legal Lean Sigma Institute faculty and consultants have worked on process improvement projects and delivered courses and programs for hundreds of leaders in the legal profession, both privately and publicly, including: ACC's Value Challenge Master Class; the Association of Legal Administrators (ALA) Annual Conference; ALA's Large Law Firm Retreat; the Legal Marketing Association's Annual Conference; LSSO's RainDance Conference; Managing Partner Forum; the College of Law Practice Management's Futures Conference; and at firm and corporate law department retreats.

History – The Creation of Legal Lean Sigma®

My interest in efficiency first took root after I graduated law school and became a corporate counsel for an insolvent insurance company. After observing how paper intensive, large loss claim files were handled – and how the estate was billed more the longer the work took – I would always look at how legal work was performed and delivered from the client's perspective. My understanding and perspective widened to include the law firm's viewpoint after serving in marketing and business development roles in several firms.

After earning a Green Belt certification in Six Sigma, I knew that the concepts of controlling variation to produce greater predictability, reduce errors, and so forth applied to legal but the reality is that it took me nearly a year to bridge what I had learned in the classroom to something that was useful to my work as a director of Business Development in a law firm. After finally trying some things and figuring out that adding Lean to the mix was important, I kept mentioning to my friend Wendy Duffey (in between discussions about the Boston Red Sox) that someone really ought to start teaching process improvement in the legal space.

One thing led to another and, thanks to Wendy's introduction, in 2008, I began to work with Laura J. Colcord, an expert with deep experience in process improvement in various applications and industries all over the world. Our task was to design and deliver educational programs that taught process improvement in contexts that would be immediately relevant and useful to lawyers and the business professionals who work with them.

The first Legal Lean Sigma® programs were offered under the umbrella of the Legal Sales and Service Organization (LSSO) – thanks to the interest and support of my colleagues and partners, Silvia L. Coulter and Beth Marie Cuzzone – and launched (as so many first to market ideas, services, and products are) at LSSO's RainDance Conference (also the first conference of its kind). Very quickly, the success of those endeavors, combined with the interest in consulting services, created a need for a

separate business structure and, in 2010, these offerings were split out of LSSO and the Legal Lean Sigma Institute LLC was formed.

In the same year, we began teaching our two-day, Yellow Belt certification course as adjunct faculty at George Washington University's Master's in Law Firm Management program. This has offered us the opportunity to work with seasoned, accomplished professionals; lawyers, administrators, marketers, IT, HR, and finance students both learn and teach us about the application of process improvement in various law firm settings.

In 2013, faculty were added to LLSI. In 2014, LLSI expanded the certification offerings by including another option, which was completely unique to the legal profession. LLSI's combined process improvement and project management program, was developed and is taught with Timothy B. Corcoran, a member of LLSI's adjunct faculty, 2014 president of the Legal Marketing Association, and principle, Corcoran Consulting Group.

Now, LLSI has delivered and supported projects to improve both legal and business processes, including:

- Practice-specific:
 - ☐ AA Plans;
 - ☐ E-Data/Exceptions;
 - ☐ OFCCP Audit;
 - ☐ Trademark registration; and
 - ☐ Single plaintiff discrimination/litigation.
- Business:
 - ☐ Responses to requests for proposals and information;
 - ☐ Events;
 - ☐ Time keeping and billing;
 - ☐ Lateral integration and employee on-boarding;
 - ☐ Staffing;
 - ☐ Document management; and
 - ☐ Facilities management.

We have developed programs and keynotes and certified thousands of leaders in Legal Lean Sigma® (and project management) at the White, Yellow, and Green Belt levels. Our certification courses have always been approved upon application for continuing legal education credit.

Our consulting practice encompasses the full spectrum of services associated with introducing, developing, and implementing process improvement programs, including strategic planning, structuring for success and organizational development, and project support with expert facilitation and Kaizen workshops.

We are now observing an interesting new wave: privately delivered certification courses for a law firm with invited clients and client teams at each table, learning and working together for the duration of the program. We are changing the conversation through the use of PI and the way we do PI work. In so doing, we are refining the process by which law firms and clients are engaging in relationships and cultivating cultures of continuous improvement.

Acknowledgements

OUT OF all of the things I've done professionally, process improvement in the legal profession is the most creative, fun, and challenging. It changes the conversation from "us/them" to just "us". It provides the framework and tools that allow us to translate vision into strategy, and strategy into tactics in ways that are competitive, yet allow everyone to win. It's the most rewarding work I have ever done. It is not something one does alone, however, so I am indebted to many who make it possible for me to teach and work in this space.

Thank you to all of my clients: those who have embraced the work and mission of the Legal Lean Sigma Institute, all the Green, Yellow, and White Belts certified in Legal Lean Sigma®, I appreciate you giving us the opportunity to work with you and to improve the legal profession, one process at a time. Teaching people about Lean Sigma and working on projects has enabled me to work with some of the brightest people I have ever met and be part of high functioning and excellent teams – it is an honor. Each client and program participant has helped us to continuously improve our courses and consulting practice with feedback and suggestions.

Thank you, Carl A. Leonard and Dr. Stephen Chitwood, for your early and ongoing support. It is an enormous privilege to teach Legal Lean Sigma® in George Washington University's Master's in Law Firm Management Program and I thank you for the opportunities to work with you. Thank you to each and every impressive student for allowing me to learn from you in the process of teaching.

Thank you to Suffolk University Law School for the chance to teach the first combined process improvement and project management course in a law school, especially Andrew Perlman (director, Institute on Law Practice Technology and Innovation, director, Legal Technology and Innovation Concentration, professor of Law) and Ilene Seidman (associate dean for Academic Affairs and clinical professor of Law). You are pioneers and I thank you for allowing me to take part in the transformation of legal education with you. A very special thank you to the Suffolk Law students who became the first law school class in the world to be certified Legal Lean Sigma Yellow Belts in the spring 2014 semester.

Most importantly, as always, I thank my family, friends, and colleagues for their love and support with special appreciation to Colin for holding down the fort while I travel for work. You have been the reason I have been able to pursue and realize my entrepreneurial dreams, including launching the Legal Lean Sigma Institute. To my children, Sarah and Alex, the lights of my life, thank you for your sacrifices; it isn't easy to have a Mom who travels so much. I'm grateful to have the good fortune of showing you that when you are able to do something you truly enjoy, it doesn't seem so much like work. My wish is that you both find that thing that brings you the same, immense personal and professional satisfaction and sense of fulfillment.

Cheers to all who are working to improve processes in the legal profession around the world; I hope to learn about the results of your efforts and wish you great success.

Catherine Alman MacDonagh, JD

Foreword

IN 1999, under the leadership of CEO and chairman Chad Holliday, DuPont embarked upon its Six Sigma journey, which was designed to eliminate costs, drive efficiency, and accelerate the Company's transformation. It was clearly understood by all corporate officers in attendance at this kick-off that no business, staff function, or region was exempt. This was a business imperative – one that could arguably determine the company's future. While our initial focus was upon cost reduction, the power of Six Sigma was, as we subsequently learned, more than that. Shortly thereafter, I was tapped to assume the role of Six Sigma champion for Legal.

While Six Sigma was initially met with skepticism in some quarters, Legal leadership had gained considerable credibility over the previous eight years in leading a law firm and supplier convergence process and in the implementation of the DuPont Legal Model, which emphasized the importance of applying business discipline and data in our representation of DuPont. In short, we were able to recognize early on that process improvement matters and that, if it was embraced by Legal, it could provide us a means to contribute to the company's transformation. So, we began to implement function-wide Six Sigma with no practice group, profession, or region exempted.

As an aside, several years into the initiative at a subsequent corporate officers meeting, our outside speaker, Jeff Immelt, who was among two others vying to succeed Jack Welch as CEO of General Electric, spoke to the group about the power of Six Sigma. At this point, GE was "all in" and was driving this initiative throughout the corporation with typical Jack Welch intensity. Mr. Immelt spoke with great persuasion and intensity about the impact of Six Sigma upon GE. And as if that wasn't compelling enough, he stated to the officers in attendance, "And even the lawyers can do it!" That was all that I needed as further provocation. From that point forward, we drove process improvement at all levels of the organization and with our network of providers with great resolve.

The impact upon our culture through the implementation of Six Sigma has been incredibly forceful and telling. Under the broad heading of process improvement, our professionals have developed and honed their leadership, communication, and collaboration skills – and, most significantly, their bottom-line focus. The program has evolved to embrace certainly Six Sigma, Lean Six Sigma, and project management – all of which serve to drive process improvement. Collectively, these tools have served to enable Legal to speak the language of the business, drive efficiency, and deliver superior results by any metric or criterion one might choose.

So I applaud Catherine in creating this primer on process improvement. It is critically needed by our profession, which suffers all too often from the perception that lawyers, and perhaps others that labor in this field, are above it all, and that business discipline and process add little value, and may even undermine our creativity and professionalism. So, let me close by observing that the examples shared in this publication of lawyers applying process improvement methodologies and tools are very compelling and serve as testament to Mr. Immelt's observation that "Even the lawyers can do it". Yes, they can!!

Thomas L. Sager, senior vice president and general counsel, DuPont Legal

Introduction: Diagnosing and overcoming lawyers' resistance to process improvement

By Jordan Furlong, author, consultant, and legal industry analyst

MANY LAWYERS show ongoing reluctance, in the face of overwhelming market pressures, to fully adopt the principles and practices of business process improvement.

Consider the following elements of the global legal market in 2014.

- All but the most elite large and midsize law firms in the US, the UK, and Canada are bleeding: revenue is down; realization is nearing 80 per cent; profits have fallen; clients are driving change; and partners are angry or scared. The cutting, and the firing, and the free-agent lateral hiring has all been done; there is nothing left now but recognition and acceptance that the traditional law firm business structure is no longer competitive in this market.

Lawyer control of the legal market is fading fast: In England and Wales, more than 300 alternative business structures, owned wholly or in part by people who are not lawyers, now provide legal services; three US states have either licensed “non-lawyers” to provide basic services or are figuring out how to do so; independent paralegals are licensed by law societies (or on the way there) in four Canadian provinces, with ABSs not far behind.

- Legal technology and process companies are in ascendance: Neota Logic has partnered with two AmLaw 100 law

firms; United Lex has taken over the litigation support functions of a third; LegalZoom is working with ODR pioneer Modria. Novus Law is taking untold dollars away from law firms. Apps can draft contracts and answer legal questions. Predictive coding is taking discovery work away from litigators. And on and on.

- New ways to organize legal talent and sell its services are flourishing: Four major British law firms (Berwin Leighton Paisner, Eversheds, Pinsent Masons, and Allen & Overy) have set up affiliated project lawyer agencies; Axiom Law is taking on complete deal work; Keystone Law is expanding to Australia; Quality Solicitors is offering a completely new business model to consumer law providers (at fixed prices, no less); LegalZoom has soft-launched in the UK in conjunction with Quality Solicitors, neck-and-neck with Rocket Lawyer.

And yet I still see people in this industry asking, “Where’s the revolution? When is the change going to come?” Folks, *the change is here*. We’re living it. Cast your mind back about five years – when Richard Susskind had just published *The End of Lawyers?* – and ask yourself whether you thought this much upheaval, and advancement, and innovation was possible in such a short period. Cast it back ten years, when the “blawgosphere” barely existed, and ask the same. The

legal market is becoming more diverse and more accessible every year; legal services are more affordable and more predictably priced every year.

Most importantly, the pace of that change is accelerating. Alternatives to the traditional – in terms of service providers, business models, workflow systems, delivery vehicles, pricing strategies, and so on – are becoming normalized; that is, they're spoken of less frequently as "alternative" and more frequently as simply another option. We don't even talk about the "new normal" as much – it's all becoming normal. These are not the signs of change in retreat; these are the signs of change becoming mainstream – ceasing to be "change" and starting to become "the way things are".

The problem is that everyone seems to have received the memo about change in the legal market – except the legal profession itself. Too many lawyers still place their hands firmly over their ears when these conversations begin – or, if they do listen, they immediately come up with all sorts of reasons why their own corner of the legal world will stay the same, or why they could not possibly undertake any of the necessary responses without destroying their businesses or abandoning their professional duties. These are the rationalizations of people who resist change primarily on the grounds that they just do not want to do it.

An excellent example can be found in lawyers' ongoing reluctance to truly embrace business process improvement within their firms. For a profession suffering from aggravated clients, shrinking revenues, competitive inertia, archaic business practices, and system waste, process improvement is the nearest we will come to meeting the definition of "panacea". It is easy to understand, inexpensive to implement, lowers costs, improves quality, enhances

communication, facilitates lawyer training, makes fixed fees profitable, and makes clients happy. If it could cure disease and direct an Oscar-winning movie, it could hardly be a more attractive proposition.

And yet, with few (albeit happily increasing) exceptions, there is still not much enthusiasm for it among lawyers and law firms. There is an odd reluctance to embrace something that clearly delivers so many benefits. Identifying the source of that reluctance tells us something important about lawyers and our capacity to adapt to this new legal marketplace.

"It's pretty tough to get lawyers to change their ways," said one partner at a big firm that is starting to implement legal project management. Another partner approached LPM training with a familiar apprehension: "Doesn't this apply only to commodity practices?" Resistance to innovation fits lawyers to a T. But what really comes across from these accounts is a sense that lawyers are not trying process improvement or workflow management primarily because they do not want to do so.

This resistance does not, I think, have much to do with lawyers' inability to grasp process improvement's features or benefits. I think it has much more to do with lawyers' dislike of procedure, systematization, methodology, routine – with "process", a word many lawyers still use with a certain amount of distaste.

I think that is because we lawyers pride ourselves on our capacity for ingenuity: the unexpected insight that makes a deal possible, the brilliant argument that turns a trial around, the stroke of inspiration that not only saves the day but also shows off just how bright we are. Smart people are drawn to the law like moths to a flame, and one of the things about smart people is that we prize raw intelligence over plodding

procedure. We use loaded adjectives – “drudge”, “mindless”, “humdrum”, “grunt” (and several less polite words) – to describe legal work that requires limited imagination, consistency over brilliance, and a lot of attention to detail.

Now, any real reflection on the matter will show that work of this nature is no less valuable or worthy than the racier, hyper-intelligent work most lawyers crave – but in our professional culture, there is a clear distinction between the two, and it matters. (In this same vein, note the tone in which lawyers say the word “commoditization”.)

It is a distinction, unfortunately, that we draw at our peril. Our competitors, some inside the legal profession but most of them outside it, have no qualms about embracing workflow improvement and the systems-based benefits it confers. They look at the way lawyers have traditionally gone about our work, and they see countless inefficiencies just asking to be exploited.

Whenever a legal task is subjected to a flowchart, outsourced to a lower-cost resource, or converted to a software algorithm, process improvement is at work, exposing all the ways in which traditional lawyering not only wastes time and money but also fails to deliver the most effective and accurate result. We give document review and due diligence tasks to bright young associates with zero training and zero interest in the job; our competitors apply rigorous scanning, screening, and review templates by trained workers who actually like to do this sort of thing. Who do you suppose gets better results?

The day of the haphazard lawyer, who pursues solutions by intuition, experience, and the loosest possible timetable, is drawing to a close. In her place is emerging the process-driven lawyer: disciplined, procedural, and systematic, who understands that madness lies not in method, but in its absence.

Most lawyers do not like that idea. We would much prefer to maintain the image of the ingenious lawyer who triumphs by intellect rather than by procedural discipline. It confirms our belief in our innate intellectual advantage over non-lawyer competitors – and, frankly, it makes us feel better about ourselves. At some level, we take offense at the idea of process improvement because it seems to reduce this wonderful profession of ours to little more than a series of steps, a collection of decision trees that anyone could follow.

The truth is, much of what lawyers do can in fact be charted, diagrammed, and proceduralized, and both the quality and the cost will be better for it. But that does not mean there is no room for smart, creative lawyers in the future.

For one thing, systems do not need to be straightforward and monotonous. More often than not, especially in the law, they are complex and challenging, and they can easily be made elegant, precise, finely tuned, honed to a keen edge – the imagery of swordsmanship is intentional. Even within systems, a lawyer’s unique judgment, analysis, and creativity can emerge.

Legal service providers who adopt systematic workflow processes will be more successful than those who do not; there is no doubt in my mind about this. So like it or not, we will have to embrace this new methodology. But what I really want to urge lawyers to do is, in fact, to like it.

Process is not a diminution of our intellectual gifts; it is the honing, disciplining, and improvement of them. Frameworks and road maps have never hurt anyone; they have gotten things built and changed lives far more effectively and comfortably than we could have managed in their absence. Take a new approach to process – look at it with a fresh eye, and see what it can add to your professional life rather than what it can

take away. Process does not have to be a necessary evil. It can easily be a necessary good.

*Jordan Furlong is an author, consultant, and legal industry analyst who tracks the rapidly changing legal services environment and advises law firms and legal organizations how best to respond. He writes about the new legal market at the award-winning blog Law21.ca, from which parts of this article were adapted. Furlong's blog, *Law21: Dispatches from a Legal Profession on the Brink*, has been named one of the 100 best law blogs in North America for six straight years by the ABA Journal.*

Chapter 1: An introduction to Lean and Six Sigma

What is process improvement?

Let's start with the basics. What, exactly, is "process improvement"? A primary goal of this report is to provide an introduction to the two most important process improvement toolkits (Lean and Six Sigma) for law firms, the main concepts behind each, and the jargon used by Legal Lean Sigma®.

Most people can identify when there are "issues" with a process. Far fewer can thoughtfully respond to the questions:

- How would you decide which problems are the most important to solve?
- How will you know when you have succeeded in improving a process?

Process improvement (sometimes called legal process improvement or LPI) provides a framework and tools to answer these two critical questions.

This report contains an overview of process improvement, process measurement, the five key phases (define, measure, analyze, improve, control) in executing a process improvement project, and the major steps and most common tools used in each phase of a process improvement project. In discussing what is required to move beyond carrying out process improvements opportunistically, I hope not only to make the case for starting a program and eventually carrying out process improvement systematically, but to help the reader to make the case as well.

To begin, then, it is helpful to define what we mean by "process improvement".

It is the systematic practice of first analyzing a process to understand how it is *currently* carried out, then searching for issues, problems, and opportunities in the process and prioritizing them. Once prioritized, tools and techniques are employed to solve priority problems or to capture significant opportunities. Finally, the new process must be controlled so that it delivers the anticipated benefits.

A "process" is a describable, repeatable sequence of activities that generates an outcome; as such, to a process improvement practitioner, nearly everything qualifies as a process, from the mundane routines of everyday life (like making coffee or tea) to incredibly complex processes involving multiple operations, people, organizations, and so forth (such as class action law suits). In the words of W. Edwards Deming, who was known as the Father of the Quality Revolution, and was responsible for the first application of statistical quality control principles to a non-manufacturing environment, "If you can't describe what you are doing as a process, you don't know what you are doing."

Already, based on my experience, I anticipate that there are readers who are unconvinced (and may be bristling with the notion) that the legal work they do can be considered or distilled to "a process". One of the things I often hear from clients is that "we don't have a process for that". However, the reality is that if you are doing a particular kind of work right now, you have a process – albeit one that may radically differ from

matter to matter, client to client, lawyer to lawyer, or office to office. Moreover, we consider processes to be the way that law firms create and deliver value to their clients. Thus, we recognize that processes embody the knowledge of the law firm, department, practice group, or team. In short, our processes are the way we do and deliver our work. Ideally, they are the best way we have learned or know how to do something – they are our best practices. As such, a great process can create a competitive advantage for a law firm.

What is legal project management?

There is a direct connection between process improvement and project management (also called legal project management or LPM). Consider this: what is the benefit of having the ability to manage projects very well if our underlying process is not the best it can be? Conversely, what is the value of having an excellent process that is not being managed well?

Process improvement helps us determine the best way to carry out a certain kind of work to achieve efficiency, excellent quality of work and service, high probability of successful outcomes, and predictability. When we do develop the capacity to do process improvement work, we can employ project management skills to select the best processes, tools, and skills to be able to carry out our ideal process every time.

Essentially, project management is a role and set of skills that ensure that, for a particular engagement, we review and select the right processes and then apply them appropriately to each particular matter. Then, project management involves actively managing schedules, staff, and deliverables to deliver high quality work on time and under budget to achieve specific goals.

Timothy B. Corcoran, principle of the Corcoran Consulting Group and adjunct faculty and affiliated consultant of the Legal Lean Sigma Institute, defines project management as “the process and activity of planning, organizing, motivating, and controlling resources, procedures and protocols”. So, even project management may be considered a process.

Corcoran explains the six steps of project management as follows:

1. Define objective (what constitutes a win for the client?).
2. Define scope and constraints, e.g. budget, timeline.
3. Establish the project plan. (Identify standard, variable, and volatile tasks; establish task timelines and budgets. What is on the “critical path”? What resources are necessary, *including a project manager?*)
4. Execute the plan (track efforts, time, budget, results).
5. Continuously monitor performance, change management (including regular communication and establishing a continuous “feedback loop”).
6. Review and improve. (Learning organizations focus on improvement over time.)

Where to start?

Many firms ask: “in which discipline should we invest and engage first, process improvement or project management?” The simple answer is that there is no one, “right way” to begin. That stated, my bias is for firms to learn both at once; this is why the Legal Lean Sigma Institute developed the only certification courses that combine Lean, Six Sigma, and project management. My next best suggestion is to engage in process improvement first, so that a firm begins to improve processes and simultaneously to

develop project management skills. After that, the firm can train project managers and others using optimized processes.

Whether your firm begins with process improvement or project management, eventually, both must be employed for the firm to fully realize the benefits of either one. We are able to attain a multiplier effect when we combine process improvement and project management: we have better, more standardized processes that are well controlled in order to achieve a high level of performance.

Processes always exist to serve a client. Accordingly, we measure both the process performance and efficiency. Processes have a characteristic performance level, usually called process capability, that describes how well the process meets client expectations (which means, obviously, that we need to understand the client's expectations as well). Additionally, we learn about process resource requirements, sometimes called process efficiency, which refers to the resources (time, people, equipment, money) required to carry out the process. There are many dimensions along which a process may be measured. Moreover, a process may perform quite well in some dimensions and poorly in others.

Ronald L. Burdge points out the value of measuring client satisfaction: "The legal profession frequently proclaims it is dedicated to providing legal services in a way that satisfies... But if we do not measure the quality of that service, then can we really say that we are able to provide excellent legal representation? If you don't know that you are doing good work, can you really be sure you are? If what you value is a satisfied client, then you must determine how to satisfy a client – and you will not really be able to know that until you understand how to gauge client satisfaction in the first place."

What are Lean and Six Sigma?

Now that we have process basics covered, we can delve into Lean and Six Sigma. Lean is about simplifying processes. With Lean, we simplify processes, reduce the number of steps, maximize process speed, and greatly improve productivity – we focus on doing the right things and eliminating waste in processes. In this way, we ensure that we maximize resource efficiency. Six Sigma is focused on reducing and controlling variation. Put together, Lean Sigma is about deciding the best way to do something and then always doing those things correctly.

In short, the two disciplines are about establishing the right things to do (Lean) and then doing those things right (Six Sigma). While it used to be the case that practitioners of each might have argued that their way was better, now they are considered complementary and used together. Some use the term Lean Six Sigma, others use Lean Sigma, which is actually an example of Lean in action, since it eliminates "six" as a superfluous word. That said, both terms are correct and are used interchangeably.

Lean concepts have been applied for centuries, but a major development in this line of thinking occurred in the Japanese automobile industry in the middle of the 20th century:

"As Kiichiro Toyoda, Taiichi Ohno, and others at Toyota looked at this situation [of the automobile manufacturing process] in the 1930s, and more intensely just after World War II, it occurred to them that a series of simple innovations might make it more possible to provide both continuity in process flow and a wide variety in product offerings... and invented the Toyota Production System.

This system in essence shifted the focus of the manufacturing engineer from

individual machines and their utilization, to the flow of the product through the total process. Toyota concluded that by rightsizing machines for the actual volume needed, introducing self-monitoring machines to ensure quality, lining the machines up in process sequence, pioneering quick setups so each machine could make small volumes of many part numbers, and having each process step notify the previous step of its current needs for materials, it would be possible to obtain low cost, high variety, high quality, and very rapid throughput times to respond to changing customer desires. Also, information management could be made much simpler and more accurate.”

How do we translate process improvement to a legal context?

One of our challenges is to translate the concepts of process improvement so that they make sense in a legal context. After all, law firms are not manufacturing automobiles or silicon wafers. There is a great deal of variation: each firm, practice group, lawyer, client, jurisdiction, matter, case, facts, judge, opposing counsel, and so on, is different. So how can we ensure that the desire to eliminate something in a process does not replace the exercise of good judgment or constrain our ability to do something that is in the best interests of the firm and its client?

This translation of these concepts from the manufacturing world to the legal space is why Legal Lean Sigma® was created. The use of Lean and Six Sigma in law is simple on a conceptual level but not always easy in the application. We have found that it has always been easiest for candidates in our certification courses to understand how to use process improvement in relation to business

processes such as timekeeping, client intake, or conflicts. Initially, it can be more of a stretch to think about how these concepts might be applied to legal work since there can often be quite a bit of variation in terms of how lawyers like to do and deliver particular kinds of work.

However, if we consider that every service offered, whether it is litigation or transactional work, contains a series of repeatable, describable steps – even if there is variation in each one – then each one is a process. Accordingly, in each service offering, there are abundant opportunities to apply Lean concepts and tools to make the process simpler and faster.

Case example: The application of Lean concepts to a service company

In an October 2003 *Harvard Business Review* article entitled “The Lean Service Machine”, Cynthia Karen Swank related how a service company was able to apply lessons learned from manufacturing. The article is particularly relevant, considering that many large law firms have grown through mergers, acquisitions, and combinations. Moreover, most firms have identified service as a key strategy for differentiation, just like Jefferson Pilot Financial, as Swank describes:

“Jefferson Pilot Financial was typical of many U.S. service companies at the end of the 1990s. After making four acquisitions that more than tripled its size, the full-service life insurance and annuities company was searching for new ways to grow in a fiercely competitive business. Rising customer expectations had led to a proliferation of new insurance products as well as an increase in product complexity and costs. At the same time, specialized

niche players touting lower premiums and faster handling of policies were forcing full-service insurance providers to both improve service and reduce costs.

The top managers of Jefferson Pilot Financial (JPF) recognized that the company needed to differentiate itself in the eyes of its customers, the independent life-insurance advisers who sell and service policies... It identified superior service to them as a key ingredient of that strategy.

To determine where improved service would have the greatest impact, JPF undertook an in-depth analysis of the operations... The study unearthed considerable variation in the quality of existing services... It was clear that management could significantly increase revenue by improving operations. Indeed, the company estimated that it could increase the paid annualized premium for its Premier Partners by 10% to 15% if it could issue all policies within three weeks of receiving the applications, offer periodic application status reports, simplify the submission process, and reduce errors to 1%.

JPF believed that its business could benefit from lean production because its operations involved the processing of an almost tangible "service product." Like an automobile on the assembly line, an insurance policy goes through a series of processes, from initial application to underwriting, or risk assessment, to policy issuance. With each step, value is added to the work in progress – just as a car gets doors or a coat of paint.

In late 2000, on the advice of a consulting firm, JPF appointed a five-person 'lean team' to reengineer the New Business operations according to the principles of lean production. The

team included the assistant vice president of New Business administration and a special project manager who reported directly to the senior vice president overseeing New Business operations. They were supported by three lean-production experts from the consulting firm. Thus the team combined in-depth knowledge of JPF's processes with an understanding of lean-production principles.

The initiative has delivered impressive results. The company halved the average time from receipt of a Premier Partner application to issuance of a policy, reduced labor costs by 26%, and trimmed the rate of reissues due to errors by 40%... These outcomes contributed to a remarkable 60% increase in new annualized life premiums in the company's core individual-life-insurance business in just two years. Similar results are being recorded in other departments as the company rolls out the new systems across the whole organization. In the following pages, we'll draw on JPF's experience to explain what an effective lean-production system looks like in a service context and how companies can go about building one."

If we replace key terms in this case with legal examples, the applicability of Lean to law firms becomes more obvious:

Law Firm A was typical of many similarly situated firms. After making four acquisitions that more than tripled its size, the full-service law firm was searching for new ways to grow in a fiercely competitive business environment. Rising client expectations had led to a proliferation of service offerings as well as an increase in service delivery complexity and costs. At the same time,

specialized niche players touting lower premiums and faster handling of legal services, such as document review, were forcing full-service law firms to both improve service and reduce costs.

The executive committee of Law Firm A recognized that the firm needed to differentiate itself in the eyes of its clients, prospects, and referral sources... Law Firm A identified superior service to them as a key ingredient of that strategy.

It was clear that the firm could significantly increase revenue by improving operations. Indeed, the firm estimated that it could increase the profits per partner by 10-15 per cent if it could speed up the delivery of legal work to the most utilized services of its key clients within three weeks of receiving the request for work, offer periodic status and budget reports, simplify the intake process, and reduce errors to 1 per cent.

Using Lean thinking to eliminate waste

Lean thinking relentlessly searches for and then reduces and even eliminates eight kinds of waste:

1. Defects and all related waste, including inspection, testing, and correction: Examples of defects include missing a filing deadline, incomplete forms, bad drafting, data entry errors, and omissions;
2. Overproduction: Examples include starting work before clearing conflicts, printing too many hard copies, and drafting a ten-page memo when only a one-page summary was requested;
3. Waiting: Examples include awaiting responses from clients, employees, or opposing counsel, starting a call or meeting late due to late arrivals, waiting

for technology such as boot up/restart times;

4. Excess capacity: For example, not using the lowest cost resources such as clients, paralegals, and assistants that are capable of doing tasks, when partners are doing associate-level work, or over-staffing a matter;
5. Transportation (this type of waste refers to things moving as opposed to people moving, which is considered "motion"): Examples include moving files from one place to another and sending hardcopies rather than emails;
6. Inventory: Examples include work in process (WIP), unread email, marketing materials (such as collateral, brochures, and promotional items, or event materials);
7. Motion (which refers to people moving as opposed to things): Examples include people spending extra time getting from one place to the next due to travel or poor office layout, delivering files rather than mailing/emailing them, extra keystrokes/clicks to find documents; and
8. Extra processing steps: Examples include conducting too much research or double and triple checking (e.g. approvals of expenses without any real review).

Waste is present in virtually every process. In their Lean management guide, "Lean for Legal Staff – The 7 Hidden Wastes", legal services consultants and trainers Levantar give examples of how work in progress (WIP) is created through waste: "One department found that 40% of in the inputs (paperwork and forms) it received from clients contained errors or omissions. To correct these, the legal staff had to call the clients; we know from our work in call centres that only 1 in 3 outbound calls is successful... Imagine

therefore that for every 100 matters being processed there were 180 activities generated.”²

Using Six Sigma to reduce variation

Lean is better when we add Six Sigma, which is focused on reducing process variation to reduce errors and defects. Our concentration is on understanding relationships between many variables. Those include the relationships between inputs and outputs, the key factors that affect outcomes, and the “best way” to do something (i.e. how can we increase our probability of a positive outcome). We question how carefully a process needs to be controlled in order to give the results desired by the client, and ask what are the benefits of consistency and standardization?

While Lean is focused on resource efficiency, with Six Sigma, our focus is on process capability and alignment with requirements. Process capability is what your process can deliver. Therefore, with Six Sigma, we want a capable process that is aligned with requirements. When we reduce and control variation so that we are doing things right, we create a very capable process.

A Six Sigma process is one where there are only 3.4 defects per million opportunities (DPMO). We define “opportunity” as any chance not to meet the required specifications. This standard makes perfect sense in the context of a manufacturing environment where Six Sigma was originally developed (first at Motorola, in the early 1980s, and later at other companies such as AlliedSignal, Boeing, or General Electric, where it was famously championed by former CEO, Jack Welch).

Sigma	Defects per million opportunities
1	691,462
2	308,538
3	66,807
4	6,210
5	233
6	3.4

Figure 1: DPMO in Six Sigma processes

The art and science of legal process improvement

At its core, Six Sigma revolves around a few key concepts. The first is “critical to quality”, which are the attributes that are most important to the client(s). A “defect” is any failure to deliver what the client wants. We must always keep in mind that variation is what our clients experience, what they see and feel; clients want to be pleased, not surprised, so it is important to have “stable operations”, which ensure that we have consistent, predictable processes to improve what the client sees and feels.

NovusLaw offers document review, management, and analysis for lawyers. They offer a stunning case study in the applicability of Six Sigma to the document review process and also serve as an example of an industry driver and innovator:

“Six Sigma is what we use to eliminate defects as we measure and analyze our work processes. Typically, undocumented processes will yield 20,000–60,000 defects per million opportunities. Six Sigma is designed to get that down to fewer than 4/million. On our most recent document review we performed at Five Sigma, or approximately 200 defects per million. By the way, that’s about 200 times better than

the average in the legal industry today.”³

This type of work used to be routinely performed by law firms. Now, law firms may do very well to partner with an outsourced provider who can deliver greater predictability and much higher quality work at a predictable price.

Not every step or part of every process should be standardized or controlled as tightly as another step in the same process – this is why legal process improvement is both art and science. There may be plenty of steps that require us to allow for a lot of latitude as we need to build in room for variation based on the lawyer’s experience and knowledge. Other steps require little to no judgment and are therefore good candidates for controlling variation. Every case or matter does not need to be approached as though we had never done this kind of work before; this is not efficient and it also actively contradicts what we say to our clients, prospects, and referral sources about the benefits of working with lawyers who have great experience.

The foundation of process improvement is to describe (map) the process. Then, we measure the process. Each process has a characteristic performance level and characteristic resource requirements. The process performance (also called process capability) describes how well the process meets client expectations, while the process resource requirements (also called process efficiency) refers to the resources (time, people, equipment, and costs) required to carry out the process. There are many dimensions along which a process can be measured; a process can perform well in some dimensions and poorly in others.

Lean is used to understand process efficiency and Six Sigma helps us to understand process capability and align the process with requirements. Thus, we now

use Lean Sigma (or Lean Six Sigma) for they are complementary and, used together, offer the most relevant and effective approach to employing process improvement in the legal industry. There is no question that opportunities for improvements in law firms are everywhere. When we employ the thinking of Lean Sigma we cannot help but see many chances to make things better in our processes for both the client and our firm – *with no tradeoffs*.

There are some who find it difficult to see the process behind the art of doing and delivering legal work. However, whatever kind of work a lawyer or firm is currently doing, it most certainly involves a process – it may not be a good one, but there are steps that are being followed each time. Since lawyers and law firms the world over seem to be far more easily persuaded by precedent than by the idea of being the first to innovate, this report contains compelling case studies as to how Lean and Six Sigma have been applied in the legal profession.

Five principles of process improvement

Lean Sigma is both a methodology and a toolkit. The methodology consists of investigating a process and improving it by using a set of five principles in a particular sequence:

1. Specify value in the eyes of the client:
We use the client’s perspective to evaluate whether an activity is value-adding (activities that work to create a feature or attribute the client is willing to pay for) or non-value-adding (activities that take time and resources, but do not create additional value for the client). All non-value-added activities are priority candidates for elimination or minimization.

2. Reduce waste and variation: In addition to minimizing or eliminating the eight kinds of waste, we are also cognizant of the fact that processes are harder to operate and require more resources if they vary. Also, when processes vary, sometimes the results will be outside the client's acceptable range.
3. Make value flow at the pull of the client: When a process has "flow", the steps are linked together so that we move from one value-adding activity directly to another, without stopping or waiting. Non-value-added steps have been eliminated and activities are now very close together. This means that there is no waiting or batching and the process takes the shortest possible time from the beginning to the end. This short cycle time allows a law firm to be very responsive to the client. The idea of "pull" is that a law firm is able to create value directly in response to actual client demand. Providing exactly what the client wants and acting exactly when the client wants (and at the last possible moment) requires all process steps to be closely coordinated in order to work together seamlessly.
4. Align and empower employees: To successfully and continuously improve processes, the firm must harness the power of great teams. There are teams of grouped individuals, where each member of the team is carrying out separate aspects of a project. There are also teams that act as an extension of the leader. The integrated, true team is able to leverage individual strengths to achieve extraordinary capacity for coordinated action – this is the kind of team we are aiming for not only when we deliver process improvement projects but in the teams delivering client work and service.

5. Continuously improve in pursuit of perfection: Because changes in the business environment are constant and rapid, they create requirements for higher process capabilities and efficiencies. If we do not continuously improve, we lose our ability to compete and function.

Maintaining the client's perspective

Notice that we begin our inquiry into Lean Sigma by using the client's perspective to evaluate whether any activity is value-adding (activities that work to create a feature or attribute the client is willing to pay for) or non-value-adding (activities that take time and resources, but do not create additional value for the client). Non-value-added activities are priority candidates for elimination or minimization. Of course, we do not just indiscriminately cut anything or anyone from a process. In fact, there are many occasions where we actually need more people/resources to make a process efficient. Moreover, just because value is not clear to the client, that does not necessarily mean that the step should be eliminated; it is an opportunity to have a discussion about why something is necessary, advisable, or important to do from the lawyer's perspective. Even after discussion, the client might not find the activity valuable – this is an even greater reason to be highly efficient.

For any of your processes, consider:

- What is the value of the process in the eyes of the client?
- How do you establish this (or how would you find out)?
- What do you do that your clients might not consider valuable?
- What waste is there in the process?
- What are the effects of variation in your processes on your firm and on your clients?

Lean Sigma is the methodology and toolkit that provides a way to explore and answer these key questions.

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