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Applying Efficient Business Strategies to the Legal Department

Law Department Management

CHEAT SHEET

- ***Lean manufacturing.*** “Lean manufacturing” is a modern business concept aiming to eliminate waste and create simpler and faster processes. In the legal world, waste can include not leveraging talented paralegals, unnecessary waiting, and excessive travel.
- ***Lessons from MassMutual.*** Five years ago, MassMutual underwent a companywide mapping of the law department’s value stream to analyze processes and increase efficiency. Through this processes, the company realized that decisions were being unnecessarily brought through the legal department and, as a result, in-house counsel created new processes to standardize workflow.
- ***Break the silo.*** A small, siloed group of lawyers cannot pull off big-picture change. To truly be successful at adapting business strategies, in-house counsel must involve myriad departments and business units that are actively invested in the process.
- ***Connect the dots.*** If you are too focused on individual transactions, you are not being proactive enough. Good processes and good data allow you to be more strategic in pinpointing areas to improve, as well as conversations you need to have with your clients and internal teams.

Love it or hate it, we are all part of a relentless drive to make our businesses as lean as possible in order to help increase profits. The pressure is coming from inside and outside our organizations: from shareholders, boards of directors, and management teams. It accelerated dramatically in the wake of the financial crisis, as companies around the world cut back and climbed out of the deepest downturn since the Great Depression.

Legal departments have felt — and continue feeling — this pressure acutely. After all, every business function within today's corporations needs to find ways to help the company compete and get to market faster. Gone are the days when lawyers could argue that legal is not a business, but rather a profession. It is critical for in-house counsel to be part of the push by applying business practices that strive to maximize value by streamlining operations and creating efficiencies.

Law firms are inherently part of that process. For one thing, there is only so much an in-house legal department can do to increase efficiency if some of its key suppliers are operating inefficiently. It has to be a partnership. Fortunately, some law firms are working hard to be part of the solution by adjusting to new demands. They too feel the pressure build from inside and outside of their organizations.

This new reality creates significant opportunities to improve your bottom line, deepen business relationships, improve legal outcomes, and — above all — put the client first. We can say this with confidence because we are already seeing the results of rolling out efficiency initiatives in-house at MassMutual and at law firm Parker Poe Adams & Bernstein LLP.

The approach our organizations are using is not new to the business world, but is fairly new in the legal profession. We are taking process improvement and project management tools that have been used successfully in the manufacturing industry for decades, and we are adapting them to the legal field. The Legal Lean Sigma Institute is a pioneer on that front, and both our organizations have partnered with the institute to learn these tools. A small but growing number of law firms are also taking this approach. Before detailing some of the results we have seen and practical lessons we have learned, let's first examine the tools.

Lean, Six Sigma, and project management

The modern concept of "lean manufacturing" was fine-tuned by Toyota after World War II. The Japanese carmaker improved on Henry Ford's approach to manufacturing by focusing even more on the flow of the entire production process. By closely linking together all activities and rooting out waste, Toyota was able to create simpler, faster processes. There are eight kinds of waste that lean manufacturing looks to eliminate:

- Defects;
- Overproduction;
- Waiting;
- Non-utilized talent;
- Transportation;
- Inventory;
- Motion; and,
- Extra processing.

In the legal world, waste can include not leveraging talented paralegals, partners doing associate-level work, unnecessary waiting, and excessive travel. Process maps can be extremely helpful in diagnosing exactly how certain work gets done and where waste may lurk in the process.

“Six Sigma” was developed by Motorola engineers in the 1980s to measure quality in a more granular way. The concept may be best known because of former General Electric CEO Jack Welch, who pushed it throughout his company. Six Sigma is a methodology that helps identify the exact steps that must be followed to get consistent results. Put another way, it is about eliminating variation in a process as much as possible. In the legal industry, engagement letters and invoices are two areas where Six Sigma can have a huge impact, as we will examine later.

At a high level, lean and Six Sigma are all about improving specific processes. The concept of “project management” is how all of these processes should fit together from beginning to end. The modern definition of it took shape starting in the 1950s, as companies and even the US Navy developed ways to better analyze large, complex projects. Many legal departments and law firms are already doing some form of project management with cases or client workloads, for example. But this big-picture approach is best applied across an entire organization to define objectives, measure improvement, and achieve consistency.

It’s important to note that the tools we have described are ultimately just that — tools. Having the right ones makes it easier to build a great framework, but the tools themselves don’t guarantee the result. The key is how you use them. Our organizations have found it is critical to use process improvement and project management to make it all about the client. Whether the client is a law firm’s external clients or an in-house law department’s internal client: It’s about improving the processes of the company.

The payoff for MassMutual

MassMutual began a company-wide focus on the principles of lean manufacturing more than five years ago. Three years ago, the philosophy made its way to the law department. One of the initial undertakings was mapping out the law department’s value stream, documenting everything it takes to get to a finished product, examining how each step flows (or doesn’t) to the next, and analyzing that process. It also ended up being an opportunity to increase collaboration, as the team hunkered down in a room together to work through it, step-by-step.

That diagnosis laid the groundwork for where the department needed to go, what to pay attention to, and how to approach problems. As a result, MassMutual overhauled its legal operations function. Building that foundation, essentially from scratch, was an opportunity to streamline the work, which is a key principle: ensuring that the most appropriate personnel are handling each task. It became clear that lawyers were wasting too much time chasing invoices and negotiating with outside counsel, and that each attorney had their own approach.

The ops team took on the opportunity to tackle these inefficiencies and created positions for legal intake and workflow coordinators, a completely new concept for the law department. From there, the team has standardized and streamlined the engagement process with outside law firms. Before the changes, invoices would sit for 300 days on average. Now, the average turnaround time is 60 days — an 80 percent reduction. That has freed up several million dollars of accruals, enabling more predictable financial forecasting and improved relationships with our firms.

That dramatic improvement was only possible because of a collaborative approach with the outside law firms. The ops team used the newly diagnosed pain points to have conversations with the firms that had the highest number of invoices, thus obtaining a better grasp on how they operate. The firms also shared their own pain points, and they and MassMutual worked together to make changes across the board. The firms and the ops team held biweekly calls to make sure the initial progress in reducing the backlog was sustained.

The legal operations function is in the early stages of using a similar approach to relieve pain points related to outside firms asking for conflict waivers. The ops team is meeting with select firms to map out the process together, starting from the very beginning of a request and going all the way through to its conclusion. This has led to surprises on both sides as MassMutual and the firms have discovered sticking points of which they were not aware. They are now collaborating to fix them, thus streamlining an important legal function.

Through the lean initiatives, MassMutual also realized that senior leaders and business units were, at times, unnecessarily bringing decisions through the law department. This can be a classic issue in the corporate world: The law department starts picking up a wide range of work that it shouldn’t be because business leaders want legal’s blessing before moving forward. While that instinct is valuable, it can result in wasted resources and the overall enterprise slowing down. By better identifying and analyzing the processes leading to that kind of waste, the law department was able to head it off. The legal team started attending its clients’ huddles, offering better training and empowering leaders with the tools they needed to advance decisions without legal input where appropriate. One example of those tools is a template for submitting requests to the law department, which enables the leaders to contemplate potential issues during the submission process and helps them decide if the issue is really “legal” or something for their management team to review. Another example is a report provided to the business managers to show themes in requests, either by submitter, topic, or product. The tools have led to discussions, adjustments to forms, and other enhancements to reduce delays and standardize workflow.

MassMutual’s law department has also eliminated waste by creating dashboards to easily see who is doing what work. It was not unusual for clients to ask multiple people in the law department the same or similar questions, at times leading to redundant work. In making the process visible and discussing it regularly at huddles, the legal department can ensure that no one is duplicating tasks and that the right resources are handling each one. The regular dialogue has allowed the leadership team to delegate projects from lawyers to paralegals and engage alternative legal service providers where appropriate, for example, with a project that involved a 50-state survey.

By standardizing and streamlining processes, MassMutual’s law department has been able to absorb significant amounts of new work without a commensurate increase in staff or outside counsel cost. The company has increased its demand on the law department for product and distribution support by an estimate of more than 30 percent while keeping its cost infrastructure essentially level. That’s even though an acquisition brought in a line of business that roughly doubled MassMutual’s field force and greatly increased its regulatory demands. The law department and legal ops team were able to handle all of that because of the recent gains they have made in efficiency — and the corresponding gains in their understanding of what their clients need and how their work gets done.

MassMutual’s legal ops team is now using these tools to address another area that will bring home the value of this to all in-house counsel: cybersecurity and data privacy. As the focus on those increases across the corporate world, IT teams must collaborate with legal and other business functions to build up a thorough defense. With a company the size of MassMutual, that process can be incredibly complicated. However, because of the process improvement skills that the legal ops team has fine-tuned, it can serve as a partner in the implementation of data privacy requirements. It is also in an ideal position now to collaborate with outside law firms to make sure they are holding up their end of the cybersecurity bargain.

Today, it is not unusual to hear a senior leader in MassMutual's law department say, "We really need a standard process for that." The shift in thinking and overwhelming buy-in have been remarkable over a short time period, especially considering that some lawyers were resistant to the lean approach at first. The keys were patience, trust, and flexibility. The people with process improvement expertise took the time to understand the legal team, the value each team member provides, and the pain points they encounter. Then, in partnership, the legal experts and process experts began to achieve small wins, which deepened the legal team's desire to do more. In addition, since other business units were implementing lean methodologies, there were opportunities to learn from one another, and those opportunities continue today. Over time, everyone has seen the value of the process improvement tools and found ways to incorporate them into their daily work.

It takes a team

A critical factor in MassMutual's success with lean, Six Sigma, and project management was a team approach — both within the company and with outside law firms. It's simple: a small, siloed group cannot pull off big-picture change.

In the case of Parker Poe, the firm decided to host a course on project management strategies. In the summer of 2017, the firm welcomed a large group of clients and other legal services professionals to the firm's Charlotte, North Carolina headquarters. Over the next two days, the law firm teamed up to study the concepts, diagnose problems, identify ways to improve, and earn a Yellow Belt Certification in Legal Lean Sigma® and Project Management from the Legal Lean Sigma Institute.

The firm heard loud and clear about the increasing pressure that legal departments face as part of the relentless drive toward lean operations. Clients said they are looking for more than just legal counsel — they want business partners with whom they can collaborate to gain efficiency and predictability. The in-house counsel who participated emphasized the value of applying these methods in tandem with the law firm.

"If we're doing project management as part of the legal process, it's important that, within my department, we are able to work with Parker Poe, as they use the project management tools as well," says Peter Barr, general counsel of Rack Room Shoes, who joined the course in Charlotte. "There is a structure and a discipline to it, and if you don't come to the table with some understanding of that, then it's not as likely to be successful."

Several Parker Poe lawyers spent the two days working through processes with their clients, and the executive team focused on one of the firm's key processes: onboarding new laterals. Hiring a lateral attorney involves myriad departments and business units, including human resources, marketing, conflicts, IT, and facilities. Parker Poe used this as an opportunity to get leaders out of their silos, assembling a cross-functional team that was able to recognize waste in a new way.

Lean and Six Sigma were particularly valuable for that, especially their emphasis on thoroughly mapping out and diagnosing the process before jumping to conclusions. One of the initial realizations the team made was that multiple functional areas needed the same information around the same time. But that information was not always gathered consistently. And once it was gathered, there was not a way to make it instantly accessible to everyone who needed it in order to complete their areas of responsibility in the onboarding process.

To solve the issue of inconsistent data gathering, the team is creating a standard questionnaire for new lawyers that will cover all of the pertinent information. Parker Poe is also using a new software system to create a central resource to make that information instantly available. In addition, the central resource will enable lawyers to fill out all of the required paperwork before their first day, helping them to hit the ground running. The firm is aiming to roll out the new software capability in 2018.

Those are just a few simple examples of the inefficiencies the team is rooting out in the lateral onboarding process. Parker Poe is also working to standardize other parts of the overall process, including best-practices playbooks for the new lawyers and their team leaders, fine-tuned schedules to make the most out of their first week and various checklists to document each step. The firm is being deliberate about all of those changes, gathering input from recent laterals and firm clients to make sure the improvements benefit them.

There are also small ways Parker Poe is applying the principles outside of lateral integration. During the Lean Six Sigma certification training, the executive team learned extensively about the eight types of waste in lean manufacturing and how they apply to law firms. The team has challenged each other to identify one example they can reduce in their functional areas. Examples thus far include templating out standard marketing campaigns, using talented paralegals for appropriate work, and making it easier for teams to find certain documents they frequently need.

Although it is too early to have detailed data on the returns, the efforts are already paying dividends in one area: the deepening of relationships with in-house counsel and inside the firm itself. Many of the people on the firm’s internal team have talked about what a fantastic bonding experience the course was, and the same has been heard from clients.

Other practical lessons

The principles of lean, Six Sigma, and project management are straightforward, but that does not mean they are easy to implement. Rolling out big changes across an organization will always be more like turning a cruise ship than a jet ski. Here are eight practical takeaways as you work toward greater efficiency:

1. The first step of any successful collaboration is listening. It is extremely hard to work together if everyone begins from a different place. Listening to each other, talking through what’s working and what’s not, is the best way to start turning the ship.
2. Process maps are outstanding tools to root out inefficiency. You might think you know exactly what goes into a task or project. But as we’ve learned, you don’t truly know until you’ve mapped it out in granular detail. And once you think you have it figured out, dig a little deeper: Diagnose the process from as many angles as possible. By being deliberate about the diagnosis, you’ll ensure your fix is not merely a Band-Aid for a bigger problem.
3. Data is your best friend. Six Sigma, at its core, is a way to make incredibly precise measurements, and the massive amount of data in today’s industries enables companies to get as exact as possible. A huge reason MassMutual has been successful with efficiency initiatives is because of its expertise in collecting and analyzing data. Use data to help diagnose problems and track solutions.
4. Examine how the eight kinds of waste that the lean approach identifies translate into your daily operations. For in-house counsel, an example can be as simple as searching to find something you need or waiting on people or technology before starting a meeting. By identifying waste, you will find opportunities to make your organization more valuable. One possible action item is for everyone to reduce one example of waste.
5. Small wins can create big momentum. MassMutual started out using pilot projects with its

clients, and Parker Poe engaged clients in its initial efforts too. Even at the early stages, the inclusion of clients (defined as internal or external clients) is essential to making sure that the resulting changes actually are a “win.” From there, your clients and your own teams will be hungry for more.

6. If you are not sure where to start, find the pockets of efficiency and innovation that already exist within your organization. Many of today’s law departments are having some success in these areas. Analyzing those successes and building on them is an effective way to create momentum and sell it culturally — you are using homegrown elements to help increase efficiency.
7. Speaking of culture, it is critical to highlight the benefits these approaches can bring to individual employees in addition to the organization at large. We get it: A lot of your staff may initially think this is just another “more with less” initiative. But when done right, these concepts can create collaborative teams, address frustrations or pain points that everybody is sick of, improve transparency, and unleash people on the tasks they are best-suited to handle. The big picture should always be part of this approach. But it’s a far easier sell if you also zoom in to answer the question: “How does this benefit me?”
8. Bottom line, if you are focused on individual transactions, you are not being proactive enough. You have to connect the dots. Good processes and good data allow you to be more strategic in pinpointing the areas you need to improve, as well as the conversations you need to have with your clients and your internal teams.

Companies like MassMutual and law firms like Parker Poe are identifying areas of waste, standardizing processes, and embracing the relentless drive toward efficiency. By adapting lean, Six Sigma, and project management tools, your company can uncover countless opportunities to team up with key business partners and make your organization more valuable. That last part — teaming up — is the critical ingredient. Through that, the tools described can deepen relationships and produce a truly collaborative approach to solving problems and maximizing value.

Christine Juhasz

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