

## 8 THINGS KILLING YOUR LEGAL ORGANIZATION – IDENTIFY & REMEDY THEM

### THE CHANGING LANDSCAPE OF LAW

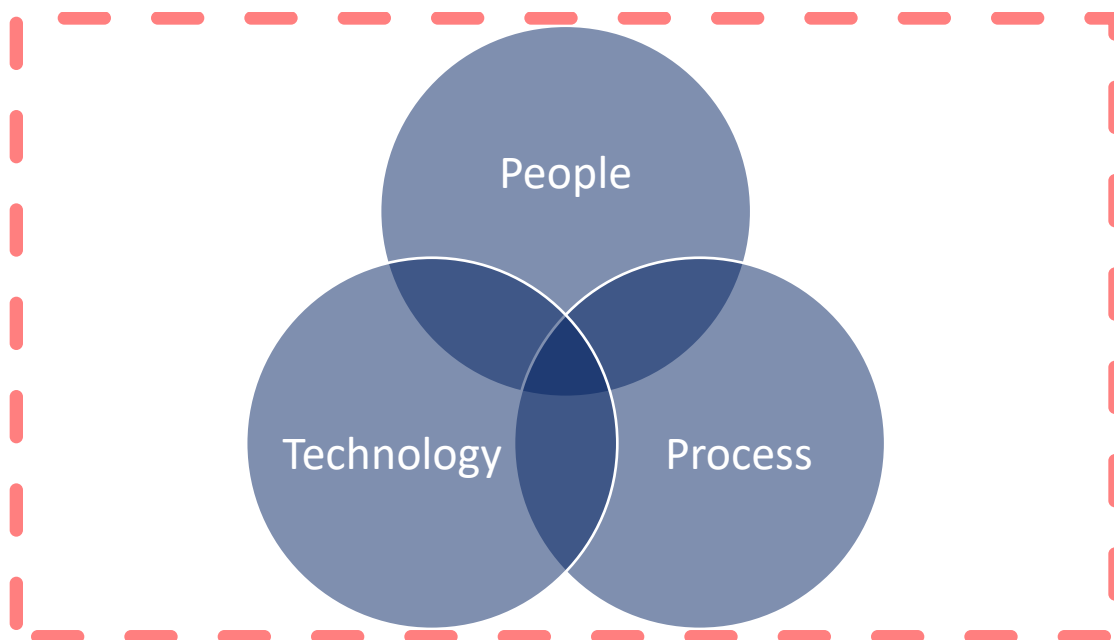
The business of law isn't what it used to be. The economic climate has changed. The billable hour is dying. Clients want value, and lawyers face increasing competition from customary rivals as well as emerging online DIY companies that have commoditized many of the services historically provided by law firms. Start thinking about how to revolutionize the way you practice law. Start thinking about accomplishing more with fewer resources. For lawyers to succeed in this new marketplace, they must be efficient and effective. They must be innovative and willing to reinvent themselves. Lawyers must be capable of delivering quality legal services and value to their clients.

Organizations that fail to embark on this mission will be left behind. Soon there will be no room for inefficient operations. Even now, subtle things like a generic (personal) email address (lawyersmith@gmail.com or realestateatty@aol.com) make a statement about the tech savviness of a lawyer. A generic email address leads one to assume the attorney is not proficient at technology. Clients surmise that attorney's work would be slower and costlier than an attorney who properly leveraged technology.

Any given day in a legal organization is often plagued by chaos and an inability to consistently produce excellent service. The focus here will be on tools that lawyers can use achieve consistency, cut costs, improve efficiency, and increase their profitability.

### ORGANIZATIONAL CULTURE

Build a better mousetrap. Let's begin by discussing a methodology to help identify and solve problems in the organization. So often, when a problem is identified, our first reaction is to come up with the least painful way to solve that problem. Sometimes it means hiring someone. Sometimes it means buying a new software program to fix it. Sometimes we change a part of a process to fix one problem, only to create additional problems elsewhere. The diagram below is one that everyone needs to understand when it comes to identifying the root cause of every problem we encounter.



It is typically not just one of these things. Before attempting to solve any problem, consider everything that could be contributing to it.

## PEOPLE

Is the right person doing the right job? Has the person been properly trained to do the job correctly? Is the person a good organizational fit?

## PROCESS

Is the failing process well-documented? Have the people that actually do the task been involved in defining the process? Do people follow the process? If not, why?

## TECHNOLOGY

Does our technology support our processes? Are the people properly trained on how to use the technology? Is the technology outdated?

## CULTURE

Does our culture support an environment where people can challenge processes that do not work efficiently? Are people rewarded for finding a better way to do something? Do we live in a culture of "that's the way we have always done it"?

## LEAN SIX SIGMA

Before jumping into the "8 Things..." it is important to get a little background in the concept of Lean Six Sigma. Lean Six Sigma originated in manufacturing. So, what can the legal services industry learn from the manufacturing?

First, understand that Lean Six Sigma is a marriage of two business philosophies: Lean and Six Sigma. Lean focuses on efficiency, on improving speed and on eliminating waste. Six Sigma focuses on quality; on doing things right every time. Lean Six Sigma is a commonsense approach to continuous improvement. The strategies, taken together, reinforce and strengthen each other, making them a powerful improvement methodology. With respect to Lean Six Sigma, the old adage is true: The Lean Six Sigma whole is greater than the sum of its parts.

Many of the tools used today to increase efficiency and effectiveness were borne of the manufacturing industry. For example, tools such as process mapping that allows us to "see" the activities that happen within our organization, or 'voice of the customer' that helps us understand what customers define as value came from the manufacturing industry. You may not use those exact words, but the concepts are the same.

Through the business management strategies of Lean and Six Sigma, the manufacturing industry provided us with a scientific roadmap for process improvement.

Lean and Six Sigma also provides metrics which allow us to measure performance. Metrics make it possible to establish a baseline and then to measure how effective changes are.

Finally, Lean and Six Sigma and the manufacturing industry created the concept of standard operating procedures. These help standardize the way we do things. Thus, even though lawyers don't make widgets, they benefit from using tools first developed by the manufacturing industry.

We recognize that the law is not a widget factory. Lawyers turn knowledge into value for their clients, they don't make widgets. That being said, there are things to be learned from the manufacturing industry. Richard Susskind, in his book, *The End of Lawyers: Rethinking the Nature of Legal Services* writes:

"Although it may be anathema to many lawyers to liken the compilation of legal service to the creation of a mere artifact, such as a car or personal computer, lawyers have much to learn from the world of manufacturing, a mature market in economic terms, in which efficiencies and cost savings have been systematically and rigorously imposed. And, if we are honest, the dashboard of a car and the motherboard of a personal computer are immensely complex components, often much more so than, say, a tightly drafted contract."

So, keep an open mind about how your legal organization could be reimagined, recreated, and redesigned to work better for you and your clients.

## DEFINING LEAN

The core principle of Lean is to maximize client value while minimizing waste. Firms that embrace Lean thinking understand what their clients value, and they focus their core processes on delivering that value to their clients. There are three essential concepts that are fundamental to Lean.

## DEFINING VALUE

The concept of value in Lean is very specific. Value is defined by the client and is anything that the client is willing to pay for, and it must satisfy all three of the following:

- It changes the form of the process or service, i.e., the client's situation has changed;
- The client cares about it; and
- It's done right the first time.

Unless something meets all of the above criteria, it is not value; it is waste. And most importantly, value is defined by the client. Understanding precisely what the client wants is the starting point of any Lean initiative.

## ELIMINATING WASTE

What is waste? Lean defines waste as work that adds no value in your customers' eyes and typically comprises 50% of total costs in a professional service firm. Lean focuses on eliminating waste and creating flow, and in the process delighting the customer. The concept may sound simple, but simple doesn't mean easy. Finding and eliminating waste are challenging, especially in a legal organization where waste is often invisible. In a firm, waste shows up most often as time. Time wasted looking for files. Time wasted looking for documents. Time wasted waiting for someone else's input. Time wasted standing at the copier or scanner.

## FOCUSING ON CONTINUOUS IMPROVEMENT

Lean speaks to the pursuit perfection: The pursuit of perfection at the heart continuous improvement traces back to Dr. Deming's work with the Toyota Production System. From a Lean perspective, continuous improvement operates at two levels. First, always looking for ways to improve a process. This type of improvement involves small, incremental changes. Secondly, examine discrete process parts at "Kaizen Events" – five-day-long events at analyzing and revising a portion of a process.

## DEFINING WASTE

Waste exists everywhere we look and has many culprits. Waste is present in every inefficient process. Inefficiency wastes time and resources. Inefficiency breeds waste.

## LACK OF STANDARDIZATION

A lack of standardization produces waste. When there is no standard way of doing things, staff do them their "own" way, which may not always be the "best" or most efficient way. Through standardization, lawyers ensure that things are done right and efficiently every time.

## DISENGAGED EMPLOYEES

Disengaged employees and morale deficits product waste. Disengaged staff take little care of the way they do things. Keep staff engaged and help them feel like they have "skin in the game". Caring, engaged staff look for better ways to do things, which eliminates waste.

## WASTE ATTRACTS WASTE

Waste produces more waste in a vicious cycle, imperiling your business and bottom line. Operating costs rise and profits decrease.

The cycle repeats. Lower cash flow leads to reduced staff and resource investment. Overworked, unhappy staff perform more slowly, having taken on additional burdens with fewer assistive tools. Slow work delays client delivery. Delayed delivery postpones payment for services rendered.

This vicious cycle chips away at profit margin and erodes the bottom line. Eliminating waste saves money and thereby increases profitability. The more waste eliminated, the more money saved in operating costs and the healthier the firm's balance sheet becomes.

## THE 8 THINGS KILLING YOUR FIRM

Lean defines eight specific wastes.

## DEFECTS

In legal practice, think of defects as mistakes made: the wrong party listed on a contract or the style of a case; notices not sent or sent to the wrong people; missed deadlines; drafting and re-drafting documents time after time – not to build upon the legal argument – but to fix errors. These are all mistakes. They are also waste – the client does not want them, and they add no value.

Other examples of Defect waste in a legal organization

- Reprinting a letter because of an incorrect address or other typo
- Data entry errors
- Correcting time entries on billing statements
- Losing files or documents
- Creating contracts, memos, and briefs requiring extensive corrections

#### OVERPRODUCTION

Overproduction occurs when the firm does work (produces something) before demand exists. Some real-life legal examples of overproduction:

- Doing more research than required
- Emailing or faxing the same document multiple times
- CC'ing people on emails that have not requested to be CC'd or that don't need to be in the loop
- Producing unnecessary documents or too many documents
- Making too many copies of a document

In each example, the firm expended resources to produce work for which there is no client demand and which the client does not value. Overproduction increases operating costs that you cannot recover since clients are unlikely to pay for something that fails to benefit them.

#### WAITING

Look around your firm. How many people at a given time are waiting for something?

- Staff (or attorneys) waiting at a copier or scanner
- Waiting for the review of a document
- Delays in completing delegated tasks
- Waiting for clients to provide documents
- Not responding to emails timely
- Delays caused by outdated technology

Waiting negatively impacts productivity whether the firm bills hourly, works contingency, or offers value pricing.

#### NON-UTILIZED TALENT

This waste manifests itself as failure to use developed skills or aptitude to provide value to clients. Examples include:

- Not seeking input on an improvement from all firm members capable of providing quality feedback
- Paralegals or highly skilled workers performing mere clerical tasks
- Attorneys doing clerical work. While one must balance self-sufficiency against talent utilization, an attorney copying documents or addressing envelopes is not performing high-level, valuable, billable tasks for clients.
- Placing an untrained individual with inadequate skills is a recipe for failure. Training creates utilizable talent. Do not force staff to waste time "figuring things out." Placing someone in that position is unfair to them, a liability to the organization and its clients, and ultimately a waste of time, money, and human resources all around.
- Failing to acknowledge individuals' contributions to the organization. Encourage staff to voice opinions and search for ways to improve firm processes. Value those opinions. People offering improvements and suggestions care about the outcome. That care is critical to creating a "continuous improvement" culture.

#### TRANSPORTATION

How much "churn" of information and materials happens in the organization? Do you shuffle matters and work-in-progress (WIP) from person to person? Often, poor understanding of a process causes transportation waste. Examples include:

- Needing to walk to a central scanner or copier

- Moving data from one system to another or keeping multiple forms of the same data
- Updating client records in multiple systems

## INVENTORY

Although inventory waste sounds like it only applies to manufacturing industry, it is also well-suited to professional services. It is a fancy term for “unnecessary clutter,” both physical and digital. Examples include:

- Too much WIP; taking too long to move cases along when you are able to; and keeping too many files on your desk as a result.
- Not closing out files at matter completion
- Keeping too many copies of documents
- Having hundreds or thousands of emails in your inbox
- Keeping outdated computers

No matter the type of inventory waste, the result is the same. The result is wasted time, wasted resources, and increased overhead.

## MOTION

Motion waste describes the movement of people or information that doesn't add value to the process. This waste can be caused by poor office design or the lack of systems for organizing files and information. Motion waste makes people look busy. Don't confuse busyness with valued added! Motion waste examples include:

- Looking for physical files throughout the office
- Searching for files in a file cabinet
- Searching for information on a computer network
- Poorly designed offices

## EXTRA PROCESSING

Extra processing is work performed beyond what your client requires or considers valuable. Examples of extra processing include:

- Purchasing expensive folders or supplies if not valued by your client when a cost-effective alternative suffices
- Creating duplicative documentation or data in different systems
- Doing work that beyond the scope of the client's case or matter

The result is wasted resources that the client won't cover because he does not value your added exertions or expenditures. The extra processing increased operational costs for zero client benefit, consequently decreasing profitability.

## ELIMINATING WASTE

So what next? It's time to start ridding your firm of waste. The final page of these materials provides a 'Waste Talk Checklist'. Let's take a quick look at that tool and how you can use it in your practice.

Waste “Talk” is in quotes because it's a bit of a play on words. Lean contains the concept of a waste walk. Remember, Lean came out of the manufacturing industry, so Lean speaks to the idea of actually walking the shop floor looking for waste. Waste in a factory is often visible — it's stacked or strewn on the floor, or it can be observed in the way people are working — where materials are stored and how much they must be moved about during production. In a legal organization, waste is often invisible. Because it's invisible, it's more difficult to identify. You must identify waste before you eliminate it.

A waste walk may be useful process in a law firm for identifying visible waste, you should also think in terms of a Waste Talk. Schedule time with your key personnel — or if it's just you, that's fine. Sit down with this worksheet and think about how the types of waste manifest in your business. As an example below, how does defect waste show up in the context of drafting a lease? But you could change lease to complaint, or will or estate plan or interrogatories or requests to produce. What if you had a checklist for the most important documents you create on a regular basis? How much time could you save, i.e., not waste — if you didn't have to draft and re-draft documents because you left out an important component? How many more clients could you serve if you were able to systematize just this one process in your office to eliminate waste?

But don't just identify the wastes – also brainstorm solutions. Once you start thinking, you're going to come up with tons of ideas. Capture them all, then prioritize their implementation. Don't worry if you generate more ideas than you can implement immediately. Remember this is a continuous, ongoing process! One step at a time! Small, incremental changes implemented consistently over time, have tremendous impact!

## WASTE "TALK" CHECKLIST

Before you can begin to improve a process, you must understand where and in what form waste exists. Once identified, you can begin eliminating waste by reengineering the way you do business. This questionnaire provides a "snapshot" of the organization's current reality and a starting point for improvement initiatives.

In Lean, a waste walk involves literally walking through a production facility to find waste. But most waste in a legal organization is invisible waste. So, rather than taking a walk, meet with your team members and get their input on where waste hides in the firm. A waste talk is designed to identify instances of waste so that you can work to eliminate them. The first step is to learn what the eight wastes are: defects, overproduction, waiting non-utilized talent, transportation, inventory, motion, and extra processing. Think of the acronym DOWNTIME. Next, ask staff for examples of waste. Finally, note every example of waste identified along with its description and a proposed solution. You could recreate this checklist in a spreadsheet so that you can add as much information as necessary.

<i>Type of Waste</i>	<i>Examples in the Firm</i>	<i>Proposed Solution</i>	<i>How is Success Measured?</i>
<b>Defects</b>	Frequent redrafting of leases due to extensive corrections, missing elements	Create a checklist for necessary components of all leases	No redrafting for clerical errors
<b>Overproduction</b>			
<b>Waiting</b>			
<b>Non-Utilized Talent</b>			
<b>Transportation</b>			
<b>Inventory</b>			
<b>Motion</b>			
<b>Extra Processing</b>			