

Knowledge Management

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An Unconventional Alliance: Lessons from a Lean Six Sigma Pilot

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A complex mergers and acquisitions practice is an unlikely place to start a Lean Six Sigma pilot in a large law firm. Conventional wisdom would suggest that these methodologies from the manufacturing sector would more likely fit the operational side of the firm, as well as the more repetitive matters in commoditized practice areas. So in April 2010, when the chair of Husch Blackwell's mergers and acquisitions practice invited me to participate in a pilot to assist lawyers in using Lean Six Sigma on acquisitions, I knew that there would be many hours of work and challenges ahead for the whole team.

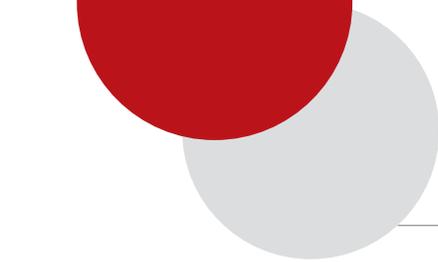
AN UNCONVENTIONAL APPROACH

The genesis of the pilot started months earlier as lawyers in the firm began investigating different approaches to matter management, alternative fee pricing and a greater degree of leverage. While it was tempting to simply fine-tune existing approaches in an effort to control costs, these lawyers recognized that a new approach was needed to address the root causes of deal expense and client frustration. By identifying ways to achieve client goals more efficiently and

effectively, the partners aimed to differentiate their services to ultimately give their clients a marketplace advantage and the firm greater market share.

Of the range of project management and process improvement methods available, the chair selected Lean Six Sigma as the pilot's frame of reference because these methodologies resonated with a cross section of the business community, including success in service sectors such as health care and banking. Furthermore, the tenets of Lean and Six Sigma, such as listening to clients, continuous improvement, process thinking and measurement, distinguished these approaches from others commonly used within the legal industry and promised to challenge status quo assumptions. Since the partners worked with different types of clients — from private equity investors to strategic buyers — the team needed an approach like Lean Six Sigma, which would allow them to develop their capability to collaborate with a client to design a framework that could improve its approach to deal management.

At the same time, the team did not perceive Lean Six Sigma to be a silver bullet. Based on their own exposure to quality initiatives in large corporations, the partners recognized that a significant percentage of top-down improvement



What Are Lean and Six Sigma?

Lean and Six Sigma are process improvement and project management methods that combine both common sense techniques and data-based tools to eliminate waste, reduce defects and delight customers. During the 1940s and '50s, Taiichi Ohno, Eiji Toyoda and others developed a knowledge management system, later known as the Toyota Production System or “Lean,” to leverage the tacit expertise of their workforce. As a scientific approach to building value through an entire flow of activities, Lean workgroups use a cycle of planning, action and reflection (plan, do, check, act) to test and improve the design of a process through actual employee performance.

During the 1980s and '90s, Bob Galvin at Motorola and later Jack Welch at General Electric (among others) developed Six Sigma as a project management system that focused on customer value and utilized statistics to eliminate defects caused by process variation. Throughout the project life cycle — described as define, measure, analyze, improve and control (DMAIC) — trained project managers execute a measurement-based strategy to eliminate the root causes of quality issues and improve customer satisfaction, sales and revenue. **ILTA**

initiatives failed to deliver the anticipated results, cost substantially more than expected and had, in some cases, a polarizing effect on employees. Furthermore, since none of the lawyers in the pilot group had a formal background in project management or Lean Six Sigma, the notion that they could gain an edge in service delivery from an approach to improving manufacturing efficiency seemed somewhat incredible.

A TEAMBUILDING DIALOGUE

From a knowledge management perspective, the pilot was also an opportunity to bring together a cross section of partners and associates who did not frequently work together on project teams. For years, the mergers and acquisitions practice met regularly to share best practices and innovative deal strategies, introduce new resources, discuss new and pending transactions, review work on forms and templates and find ways of capturing deal experience. Despite the wealth of knowledge being shared in this forum, following the firm's own mergers in 2008, the economy had presented fewer opportunities for partners from different backgrounds and with different types of clients to collaborate on large, complex transactions.

With Lean Six Sigma as the guiding framework, the pilot became a structured opportunity to openly discuss a wide range of transactional experience and desired best practices in deal management. Since lawyers had to account for such a large number of variables in any of their typical deals, the team created a model transaction for discussion that represented the standard set of anticipated variables in an acquisition. For the associates in particular, the pilot was an excellent exposure to the entire deal process, compared to their more typical targeted experience with areas like

due diligence. Of special significance were the insights into client values and the rationale supporting the logical design of transaction documentation.

AN ITERATIVE FORMAT

Over the course of seven months, the pilot group met for 90 minutes every other week using the firm's video-conferencing system. The agenda for each session often included discussions of Lean Six Sigma concepts or techniques, practice exercises or simulations based upon materials developed in-house, and time to apply the method to either the transaction's process or documentation. In between meetings, lawyers read a series of articles and books from the trade press, listened to downloads from iTunes U or continued to work on assignments in preparation for the next session. Even though client demands always took precedence, this iterative format proved effective in providing this team of highly capable and busy professionals ongoing opportunities for dialogue, learning and practice as they managed competing demands for their time.

OBSERVING THE INVISIBLE

As a non-lawyer guiding the introduction of Lean Six Sigma to the team, I had the opportunity during these meetings to listen to the dialogue and observe how lawyers overcame the challenges of adapting Lean Six Sigma to their corporate practice. The pilot was also an opportunity to observe the differences between approaching knowledge management from a Lean Six Sigma perspective and the more conventional one found in most law firms today. Of the many lessons learned during our meetings, the few that follow illustrate

both how different and challenging a Lean Six Sigma approach can be in a legal setting.

The first challenge the team had to overcome was their perception that the jargon and tools of Lean Six Sigma were not a good fit for legal work. Since it is quite common in service industries to hear “we are different” and “each project is unique,” I was not surprised to encounter these perceptions when the subject matter was a highly creative and intellectual exercise like a complex transaction.

In this case, mergers and acquisitions lawyers manage a tremendous number of variables in large deals often in non-linear and exceptional ways that are difficult to capture on a flow chart. However, as the team discussed these concepts and applied tools to define a transaction that represented a standard set of anticipated variables, they found that Lean Six Sigma methods could be adapted to legal work through persistent effort, artful negotiation and consensus building. By agreeing to a provisional state map that would allow partners to adapt the process to the particulars of a client matter, the team was then able to evaluate the flow of information and uncover some of the factors driving cost upward in a deal.

USEFUL STATISTICS

Lean, Six Sigma and the management approaches called by their names are fundamentally rooted in measurement, so it is common practice to observe the workplace and collect data either by conducting time studies or mining existing internal databases. Unlike some other service industries, law firms are technology-rich office environments where the intellectual, social and creative work is often invisible and impossible to capture in traditional ways.

To determine whether data in the firm’s time entry system could be incorporated into the value stream map, the practice group chair asked each lawyer in the pilot to identify a short list of matters from the last few years as a representative sample for comparison. Using a recent matter as a test case for analysis, the firm’s financial reporting group compiled the data and graphed the results as a composition and distribution of time worked per role, per day.

After several hours of discussion with the lead partner on the deal, we concluded that there was simply no way to extrapolate the cost of process segments, much less the individual process steps, based off of the existing data points. The dynamics of corporate transactions, the practice of block billing and a lack of coding had resulted in a set of unstructured data that was of little use in defining a baseline. Furthermore, given the complexity of the transactions in the sample, the opportunity cost of attempting to restructure the time entries by manually parsing the data was simply too great.

While the lack of useful hard data presented another challenge to the development of the value stream map,

it also prompted a deeper discussion of the dynamics of information flow and of other more qualitative attributes of activities within each process segment. As a result of this dialogue, the team began evaluating the benefits of different forms of estimation and again reached consensus on a viable way to approximate values for cycle and lead times. Going forward, the team concluded that if lawyers started coding their time based on a defined set of project phases, data could be gleaned from the accounting system and layered onto the process map. Until then, the group would continue to focus on describing and understanding the dynamics of transactions from a Lean Six Sigma perspective in order to gain as much insight as possible.

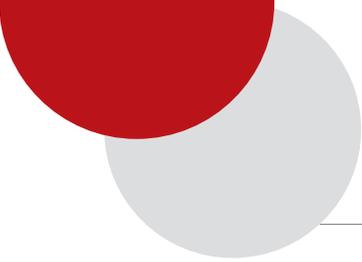
TURNING DRAFTS

The lawyers faced yet another challenge in the pilot: They had to overcome the tendency to perceive transaction documentation in more traditional ways. Initial discussions narrowed the team’s focus not only to the subset of documents within the central flow of the process, but also the standard set of provisions anticipated in the model transaction. Unlike more common form-creation exercises or even projects involving document assembly tools, the objective of applying Lean Six Sigma concepts to a set of documents was not simply to accelerate the production of an initial draft or to build a comprehensive reference of alternative language. Instead, the team had to continually ask questions about the causes of turning drafts throughout the transaction and how to inform other contributors, including clients, about how information could be managed within the new framework.

As documentation was completed during the pilot, the team also realized that just as they wanted to start using these materials in their current deals, the larger practice group might also want to use a particular document outside the context of the overall approach. This discussion underscored the importance of orienting and educating the practice group as a whole on the benefits of introducing the framework to clients and the challenges of using the documentation on a piecemeal basis.

A NEW FORM OF LEVERAGE

From a knowledge management perspective, Lean Six Sigma has the potential to add a different kind of leverage to a legal practice, because it transforms lawyers’ tacit knowledge into actionable, explicit knowledge and develops their capabilities to apply insights and process thinking more generally in other areas. However, one should not underestimate the level of commitment necessary to see this type of project through, given the amount of reading and practical application required to learn Lean Six Sigma concepts and articulate the team’s specific



deal management approach. Especially from the perspective of continuous improvement, the long cycle times of most successful transactions create additional challenges to the further refinement and deployment of Lean Six Sigma strategies.

Compared to the implementation of knowledge management software, Lean Six Sigma projects unpack a process in ways most technology deployments do not. Instead of perceiving solutions as automating or optimizing certain steps of a process that a software application can control, these methods prompt questions about which activities add value from a client's perspective and how the overall flow of information drives the cost and quality of production. Furthermore, instead of implementing a solution driven by the constraints of capital budgets or leasing cycles, a Lean Six Sigma approach provides the means for a team to improve on an ongoing basis by incorporating lessons learned as projects are completed.

Much like the early years of Toyota, when Taiichi Ohno would ask new employees to stand in a circle on the factory floor until they could observe waste in a process, the pilot provided us with an opportunity to observe the invisible and gain fresh insight into deal and knowledge management. Through dialogue and the practical application of these tools, the team was able to resolve the tension between the need to improve their current practices and the desire to create a marketplace advantage for their clients. Of all the lessons learned during the pilot, it's clear that the pilot's success was due in large part to the leadership, subject-matter expertise and team dynamics that formed consensus on numerous points. **ILTA**

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