

Get the Waste Out of Your Practice - How To Apply Lean Six Sigma Principles to a Law Office

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Table of Contents

I.	The Changing Landscape of Law	1
II.	Law Firm Culture	1
A.	People	2
B.	Process	2
C.	Technology	2
D.	Culture	2
III.	Lean Six Sigma	2
IV.	Defining Lean:	4
A.	Defining Value	4
B.	Eliminating Waste	4
C.	Focusing on Continuous Improvement	4
V.	Defining Waste	4
A.	Lack of Standardization	5
B.	Disengaged Employees	5
VI.	The 8 Things Killing Your Firm	5
A.	Defects	5
1.	Examples	5
2.	Quotes From Clients	6
3.	What To Do About It	6
B.	Overproduction	6
C.	Waiting	7
1.	Examples	7
2.	Client Quotes	7
3.	What To Do About It	8
D.	Non-Utilized Talent	8
1.	Examples	8
2.	Client Quotes	9

3.	What To Do About It	9
E.	Transportation	9
1.	Examples	10
2.	Client Quotes	10
3.	What To Do About It	10
F.	Inventory	11
1.	Examples	11
2.	Client Quotes	11
G.	Motion	11
1.	Examples	11
2.	Client Quotes	12
H.	Extra Processing	12
1.	Examples	12
2.	Client Quotes	12
VII.	Eliminating Waste	13
VIII.	Waste "Talk" Checklist	13

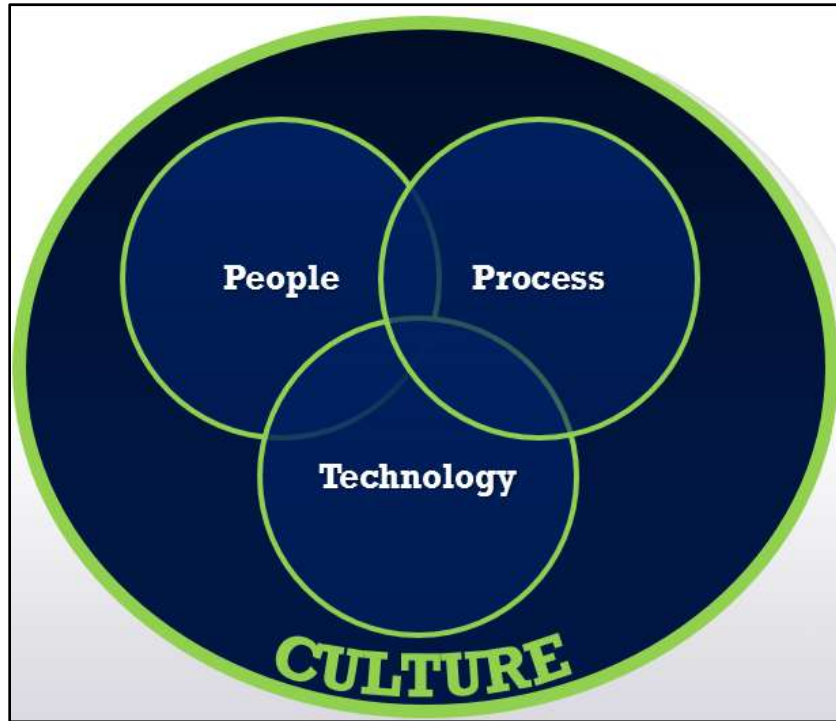
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- I. **THE CHANGING LANDSCAPE OF LAW:** The business of law isn't what it used to be. The economic climate has changed. The billable hour is dying. Clients want value, and lawyers face increasing competition from customary rivals as well as emerging online DIY companies that have commoditized many of the services historically provided by traditional law firms. It is time to start thinking about how to revolutionize the way you practice law. It's time to start thinking about accomplishing more while using less resources. For lawyers to succeed in this new marketplace, they must be efficient and effective. They must be innovative and willing to reinvent themselves to stay ahead of the pack. Today, lawyers must be capable of delivering quality legal services and value to their clients.

Those firms who do not embark on this mission will most definitely be left behind. Very soon, there will be no room for the inefficient law firm in the market. Even now, subtle things like a generic (personal) email address (lawyersmith@gmail.com or realestateatty@aol.com) can make a loud statement about the tech savviness of a lawyer or law firm. For me, I would simply never work with a law firm who used a generic email address like that, because I would immediately assume they were not proficient users of technology, and anything they did for me would cost more than a firm that was leveraging technology.

Any given day in a law firm is often plagued with chaos and a lack of systems that reduces the ability to consistently produce excellent service. Our focus here will be on tools that lawyers can use achieve consistency, cut costs, improve efficiency and increase their profitability.

- II. **LAW FIRM CULTURE:** So, in a nutshell, this session is about building a better mousetrap. It is about a methodology to help you identify and solve problems in your firm. 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 we hire someone. Sometimes it means we look at a new software program to fix it. Sometimes we change a part of a process to fix one problem, but we create several other problems because of that one change. 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.

- A. **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 fit for our firm?
- B. **Process:** Is the process that is failing well documented? Have the people that actually do the task been involved in defining the process? Is the process followed by everyone?
- C. **Technology:** Does our technology support our processes? Are the people properly trained on how to use the technology? Is the technology outdated?
- D. **Culture:** Does our firm culture support an environment where our people can challenge processes that do not work in the most efficient manner? Are our people rewarded for finding a better way of doing something? Do we live in a culture of "that's the way we have always done it"?

III. **LEAN SIX SIGMA:** Before we jump into the "8 Things..." it is important to get a little background in the concept of Lean Six Sigma (LSS). Lean Six Sigma has its origins in manufacturing. So, what can the legal services industry learn from the manufacturing industry?

- A. First, it is important to 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 common sense 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 truly greater than the sum of its parts.

- B.** Many of the tools we use 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 law firm, or 'voice of the customer' that helps us understand what our customers define as value came from the manufacturing industry. You may not use those exact words, but the concepts are the same.
- C.** Through the business management strategies of Lean and Six Sigma, the manufacturing industry has provided us with a scientific roadmap for process improvement.
- D.** Lean and Six Sigma also provides us with metrics which allow us to measure our performance. Metrics make it possible for us to establish a baseline and then to measure how effective our changes are.
- E.** Finally, Lean and Six Sigma and the manufacturing industry has provided us with the concept of standard operating procedures. These help us to standardize the way we do things. Thus, even though lawyers don't make widgets, they can benefit from using some of the tools that were first developed by the manufacturing industry.

We recognize that a law firm 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. I want to share with you a quote from Richard Susskind's book, *The End of Lawyers: Rethinking the Nature of Legal Services*:

"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 law firm could be reimagined, recreated, and redesigned to work better for you and the clients you serve.

IV. **DEFINING LEAN:** The core principles of Lean are to maximize client value while minimizing waste. Law 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.

A. **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:

1. It changes the form of the process or service, i.e. the client's situation has changed
2. The client cares about it
3. 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.

B. **Eliminating Waste.** What is waste? Waste is defined as work that adds no value in your customers' eyes and typically comprises 50% of total costs in a professional service firm. Lean is focused 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 can be challenging, especially in a law firm where waste is often invisible. In a law 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 on a document. Time wasted standing at the copier or scanner.

C. **Focusing on Continuous Improvement:** Lean speaks to the idea of pursuing perfection: The integral concept of pursuing perfection embodied in the concept of continuous improvement can be traced back to Dr. Deming's work with the Toyota Production System. From a Lean perspective, continuous improvement operates at two levels. First, it refers to the idea of always looking for ways to improve a process. This type of improvement involves small, incremental changes. Secondly, continuous improvement also involves process improvement achieved via an event, often called a "Kaizen Event" that is usually five days long and that is aimed at very specific improvements to a particular part of the process.

V. **DEFINING WASTE:** Waste is present everywhere we look, and the culprits are many. Waste is present in every inefficient process. When we are inefficient, we waste time and resources. It can be said that inefficiency breeds waste.

- A. Lack of Standardization:** A lack of standardization also causes waste to exist. When there is no standard way of doing things, staff will do them their "own" way, which may not always be the "best" or most efficient way. By standardizing the way things are done, lawyers can ensure that things are done right and efficiently every time.
- B. Disengaged Employees:** Disengaged employees and lack of morale are big creators of waste. Staff who are disengaged take very little care of the way they do things. Keeping staff engaged and feeling like they have "skin in the game" is important. Staff who are engaged and care are always looking for better ways of doing things, which is an important component of your fight to eliminate waste.

Waste occurs as a deadly cycle that impacts your business and your bottom line. When waste is present, it leads to increased operating costs. In turn, increased operating costs lead to decreased profits.

The cycle repeats itself when lawyers begin to experience a loss of resources as a result of a lower cash flow. When lawyers make less money, they tend to cut back on staffing and other resources. This, then leads to more waste and a downward spiral. Staff soon become taxed and unhappy. They take longer to complete their work as they take on other people's tasks and have to complete their jobs with less available tools than they had before. The longer it takes you to complete work, the longer it takes to get paid.

This cycle begins to chip away at your profit margin and, ultimately, erodes your bottom line. Eliminating waste means you save money. Eliminating waste is about increasing profitability by saving money. The more waste you eliminate from your practice, the more money you save in operating costs and wasted resources. The more money and resources you save, the healthier your bottom line.

VI. THE 8 THINGS KILLING YOUR FIRM: Lean defines 8 specific wastes. We will go over each one - how to spot them and how to eliminate them, but for now let's just name them:

- A. Defects:** Defects show up in a variety of ways in your law firm. An easy way to think about defects is as MISTAKES. 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. All of these things are mistakes. They are things your clients do not want to pay for, and they do not add value for your client.

1. Examples: Other examples of Defect waste in a law firm:

- a. Reprinting a letter because of an incorrect address or other typo
- b. Data entry errors
- c. Correcting time entries on billing statements

- d. Losing files or documents
- e. Creating contracts, memos and briefs that require extensive corrections

2. **Quotes From Clients:**

- a. "I finally got a new secretary, but she has no attention to detail; so it's just easier and faster if I still do the drafting myself."
- b. "At the signing conferences, there are errors with the documents about 15% of the time; so we all just have to sit there and look at each other while the corrections are made and everything is re-printed."
- c. "I know Gary makes a lot of money for the firm, but he doesn't think hard enough about some of these plans and I don't have time to review every single Trust he produces."
- d. "I use an OCR program, but by the time I fix all of the typos, I could have just typed it myself."

3. **What To Do About It:**

- a. Stop creating new documents from old ones
- b. Document your processes
- c. Create checklists
- d. Reduce paper
- e. Try document management system
- f. Establish accountability (make people correct their own mistakes)

B. Overproduction: The simplest way to look at overproduction is that overproduction occurs when your firm produces too much of something before there is demand for it. Let's look at some real-life law firm examples of overproduction:

- 1. Doing more research than is required.
- 2. Emailing or faxing the same document multiple times
- 3. CC'ing people on emails that have not requested to be CC'd or that don't need to be in the loop on that email

4. Producing unnecessary documents or too many documents
5. Making too many copies of a document.

What is common among all of these examples is the result that comes from overproduction. Your firm has expended resources on producing work when there is no client demand and when the work does not provide value for your client. This impacts your bottom line. Your operating costs have now increased even though you will never recoup those costs as your clients are not likely to pay for overproduction since it doesn't benefit them or their matters.

C. Waiting: One of the most frustrating forms of waste in a law firm is WAITING. Look around your firm. How many people at any one time are waiting for something?

1. **Examples:** Here are some examples of Waiting waste:

- a. Staff (or attorneys) waiting at a copier or scanner
- b. Waiting for the review of a document
- c. Delays in completing delegated tasks
- d. Waiting for clients to provide documents
- e. Not responding to emails within a certain time
- f. Delays caused by outdated technology

2. **Client Quotes:**

- a. "I'll put something out for John to sign and it'll sit there for a week."
- b. "I'll wait a week or up to 2 months; sometimes he won't review things until I get a delinquency a notice from the department of human services."
- c. "I feel like it's a wait-until-the-last-minute thing and I worry that a warrant is going to be issued for my client before something gets done so I can get a continuance to complete discovery."
- d. "From a workflow perspective I am always uncomfortable when I send an email to Mark which requires his attention and I do not hear back."

- e. "Billing is a major production because I don't think Joe likes to do it. It gets pushed and pushed until the last minute and it causes everyone stress."

3. **What To Do About It:**

- a. Delegate
- b. Remove yourself from the process
- c. Let go of the less important stuff
- d. Have an upgrade schedule
- e. Work in improving task management
- f. State your expectations (I need it by ____)

So what does all this waiting add up to? It negatively impacts your productivity whether you're billing by the hour have a contingent fee practice or offer value pricing.

D. Non-Utilized Talent: Non-utilized talent is a deadly waste is when you fail to use the developed skill or undeveloped aptitude to provide value for your clients. Examples of non-utilized talent are:

1. **Examples:**

- a. Not seeking input on an improvement from all of the members of the firm who are capable of providing quality feedback.
- b. Paralegals or highly skilled workers wasting time filing, copying documents, or undertaking activities that can be done by a lower skilled worker.
- c. Attorneys doing clerical work. This is a pretty big one from the perspective that many attorneys believe that an attorney should be able to copy their own documents or print their own envelopes. By an attorney engaging in clerical work, he or she is taking time away from doing higher level tasks that are billable and that provide value for your clients.
- d. Placing someone with inadequate skills in a position without training. Training, or lack thereof, is also a topic of great importance for law firms. Much time is wasted "figuring things out" when human resources are thrust into a position without

receiving adequate training. Not only is this a problem from the standpoint of liability, but it is a waste of valuable time and money when staff is unproductive as a result of inadequate training.

- e. Not acknowledging individuals' contributions to the firm. This is important in creating a culture of continuous improvement. If your human resources don't feel encouraged or that their opinions are valued, they will shy away from continuously looking for better ways to do things within your firm.

2. **Client Quotes:**

- a. "HR has no clue what we do. They're not supporting us. It's a pleasant place to work; but HR has made it clear that they want a distinct separation between staff & attorneys. They don't want the staff to personally interact with attorneys. They should be trying to pull us together. I'm not trying to climb the corporate ladder, I know my role."
- b. "We're hiring a lot of people who have no experience and they're failing and we're firing them or they're leaving. We can't hire someone just because Cindy knows them from church. They should have some experience doing this job."
- c. "I want to become the e-discovery expert they want me to be, but I can't get there by watching free videos on the internet."

3. **What To Do About It:**

- a. Don't force people to multi-task by asking them to do something you could have done yourself in less time if you knew how to use your own systems.
- b. Ongoing training
- c. Don't micro-manage
- d. Become more self-reliant
- e. Eliminate mindless aspects of a job (like transcription)
- f. Let people know you appreciate them

E. Transportation: Transportation waste refers to excess or unnecessary movement of materials or information within the firm. Transportation waste also includes

shuffling inventory or work-in-progress (WIP) from one person to another. Often the waste of transportation is caused by a poor understanding of a process.

1. **Examples:** Examples of Transportation waste in a law firm:

- a. Needing to walk to a central scanner or copier
- b. Walking to the library
- c. Moving data from one system to another or keeping multiple forms of the same data
- d. Updating client records in multiple systems

2. **Client Quotes:**

- a. "For calendaring, both Bill and Jackie use Outlook, Time Matters and a paper calendar. They spend a lot of their time trying to make sure they're all in sync."
- b. "The book is at the front desk. If Jack meets with a client and wants to make another appointment, he makes it in the book. We spend a lot of time trying make sure the book and Time Matters are the same. Sometimes we still have clients showing up for appointments which we weren't aware of."
- c. "We use both Timeslips and QuickBooks for accounting, but they don't talk to each other. So a lot of information has to be manually entered in both systems."
- d. "I don't trust computers. So everything I enter into Peachtree, I also write on my the ledger sheets I keep in my cabinet."
- e. "Anna Mae insists on walking to the recorder's office and filing deeds herself after her closings because she wants 'face time' with the folks over there. I don't get it. She can't bill anyone \$300 an hour walking to the recorder's office."

3. **What To Do About It:**

- a. Eliminate & don't buy systems that don't share data
- b. De-centralize scanning
- c. Focus on bridging data
- d. Use as few devices as possible

F. Inventory: Although the waste of inventory sounds as though it only applies to manufacturing industry, it is also well-suited for the professional services industry. Inventory waste is simply a fancy way of saying "unnecessary clutter," not necessarily just physical clutter, but also digital clutter.

1. **Examples:** Some law firm examples of this are:

- a. 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.
- b. Not closing out files at the completion of a matter.
- c. Keeping too many copies of documents.
- d. Having hundreds, maybe thousands, of emails in your inbox.
- e. Keeping too many outdated computers

2. **Client Quotes:**

- a. "There are boxes of files that need to be billed. We went through and drafted narrative bills. They just need to be looked at by Sarah so they can be billed and it's been a year and they're still there."
- b. "I figure there are about 40 files we could collect on that are sitting on my office floor and a few that I know we should just write off."

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

G. Motion: Motion waste is any 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. The waste of motion can be particularly insidious because it can create the sense that people are busy. Being "busy" doesn't mean you're adding value!

1. **Examples:** Examples of Motion waste in a law firm:

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

- e. Big culprit: Wasting hours trying to get a document to look the way you want

2. **Client Quotes:**

- a. "We generate probate documents in WordPerfect, but you have to e-file Word documents so we have to convert them and it takes forever to fix the formatting."
- b. "I sometimes have trouble finding Word documents I created, but I can rarely find documents other people in this office created."

H. Extra Processing: Extra processing is extra work that is performed beyond what your client requires and what your client considers value. A few examples of extra processing in a law firm are:

1. **Examples:**

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

2. **Client Quotes:**

- a. "We spend a lot of time doing a narrative bill. We print out the prebill from Timeslips and then type a narrative bill from that."
- b. "We put the client's original documents in a fancy faux leather binder. However, if you take anything out to make copies, the binder is ruined and you can't put the documents back in it without a binding machine."
- c. "Most Medicaid work is flat fee, but he does some of them hourly and he's not good at hourly billing; so he decided to try and get all of the hourly files billed and dropped it on me; Brad's wife came in and helped; after all of that, the bills still aren't out because he wants to edit all of them and he has to micromanage all of that stuff."

Again, the result here is wasted resources that the client is not likely to pay for because he doesn't consider the extra work to be value, and increased operational

costs and wasted time. All of these factors affect your bottom line by decreasing your profitability.

- VII. ELIMINATING WASTE:** So what next? It's time to start getting rid of waste in your law firm. At the end of these materials, we have provided something called a 'Waste Talk Checklist'. Let's take a quick look at that tool and how you can use it in your practice.

In the way of background about the concept of a Waste 'Talk'. We put Talk in quotes because it's a bit of a play on words. If you study Lean, you'll learn about 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 about the floor, or it can be observed in the way people are working – where materials are stored and how much they must be moved around during production. In a law firm, waste is often invisible. Because it's invisible, it makes it that much more difficult to identify. And before you can eliminate it you have to identify it.

So while a waste walk can also be a useful process in a law firm for identifying visible waste, you should also think in terms of a Waste Talk. Schedule a sit down with your key person or key people – or if it's just you, that's fine. Sit down with this worksheet and think about how these different types of waste show up in your law firm. We've given you an example of how the waste of defects might 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 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?

You don't want to just identify the wastes – you should also brainstorm proposed solutions. Once you start thinking about this, you're going to come up with a lot of ideas. Capture them all, then prioritize the ones you want to implement first. Don't worry if you come up with more ideas than you think you can implement right away. Remember this is an ongoing process! One step at a time! Small, incremental changes implemented consistently over time, can have a tremendous impact!

- VIII. WASTE "TALK" CHECKLIST:** Before you can begin to improve any process, you must understand where and in what form waste is present in within your firm. Once the waste in your firm has been identified, you can begin to eliminate it by reengineering the way you do business. This questionnaire will provide a "snap shot" of the current reality of your firm and a starting point for your improvement initiative.

If you study Lean, you'll learn about the concept of a waste walk. A waste walk involves literally walking through a production facility to find waste. But most of the waste that occurs in a law firm is invisible waste, so rather than taking a walk, meet with your team

members and get their input on where waste is hiding in your 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 8 deadly wastes are: defects, overproduction, waiting non-utilized talent, transportation, inventory, motion, and extra-processing. You can think of the acronym DOWNTIME. Next, meet with your staff and discuss examples of waste that have they have experienced or are aware of in your firm. Finally, note every example of waste that you have identified along with its description and a proposed solution for how to eliminate it. *You may want to recreate this checklist in a spreadsheet so that you can add as much information as necessary.*

Type of Waste	Examples in the Firm	Proposed Solution	How will we know if we were successful?
<i>Defects</i>	<i>Frequent redrafting of leases due to extensive corrections, missing elements</i>	<i>Create a checklist for necessary components of all leases</i>	<i>No redrafting for clerical errors</i>
<i>Overproduction</i>			
<i>Waiting</i>			
<i>Non-utilized talent</i>			
<i>Transportation</i>			
<i>Inventory</i>			
<i>Motion</i>			
<i>Extra processing</i>			