



LEGAL PROCESS MANAGEMENT:

A VALUE-DRIVEN APPROACH

WHAT IS LEGAL PROCESS MANAGEMENT?

Legal Process Management applies continuous improvement and change management principles to legal processes, maximizing both the micro- and macro-effects of those changes with the end goal of providing greater value to the client.

Articles written on this topic typically skip across the surface loaded with textbook definitions and illustrations of continuous improvement concepts, but lack substantive examples and practical applications in the legal industry. No fault to those early submittals as they build an understanding and continue the conversation, but absence of specific implementation and results leaves room for doubt.

This article, however, goes beyond the high-level platitudes to provide an example of solving real challenges that are driving inefficiencies in everyday legal processes. Inefficiencies, if you are not careful, can result in large costs absorbed either by the client or by the law firm.

You are invited to explore deeper an environment where the status quo is no longer accepted and where legal service providers work in conjunction with their clients to eliminate waste and reduce legal spending: **LEGAL PROCESS MANAGEMENT.**

REAL WORLD JOURNEY

Processing high volumes of incoming documents by law firms (or third-party vendors), like plaintiff fact sheets or complaints in the mass tort setting, provides a nice platform to show how easily poor process design can drive inefficiencies.

IN THIS PARTICULAR EXAMPLE, THE LEGAL TEAM IS RESPONSIBLE FOR:

- Acknowledging and recording receipt of the incoming complaint and supporting documents (e.g. medical records, fact sheet, etc.)
- Extracting key information into databases for statistical reporting and status updates
- Forwarding documents to the client, co-counsel and third-party vendors
- Filing documents into a document management system

At face value, the process appears linear and straightforward. However, when litigation expands and it becomes necessary to process more complaints, details of the process design become extremely important. Adding to the strain, court orders place demands on the legal team and increase the complexity of processing these documents. And as the litigation progresses, attorneys start requesting more and more statistical information about the population of complaints. The legal team becomes increasingly stressed and overwhelmed as the initial system design can no longer handle the demand.

RECOGNIZING SYMPTOMS

- BACKLOGS
- OVERTIME
- QUALITY
- REPORTING
- STRESS

SYMPTOMS OF A PROBLEM

SYMPTOMS OF AN INEFFICIENT PROCESS BEGIN TO EMERGE:


- Unprocessed document backlogs grow
- Timekeeper hours spike, and overtime becomes the new norm
- Quality begins to suffer
- Reporting is no longer real-time and reflective of the current status
- Ability to “catch up” falls out of reach
- Fatigue, stress and frustration permeate the mood of the team

IN RESPONSE TO THE CURRENT STATE OF AFFAIRS BUT LACKING THE PROPER TRAINING OR TIME TO EVALUATE THE SITUATION, THE LEGAL TEAM DEFAULTS TO TRADITIONAL, REACTIVE RESPONSES:

1. Increase Staff = More Cost
2. Increase Quality Inspections = More Bottlenecks
3. Increase Controls = More Complexity

The request for additional manpower under the same inadequate process design expedites the cost curve as more timekeepers bill more hours to the client. As quality issues emerge, likely through an embarrassing moment with an attorney – or even worse, with the client – the team adds quality-control checks, sometimes 100 percent of the work product. If not employed effectively, these quality checks create more bottlenecks and backlog issues, again driving up costs. And finally, in an attempt to control the process, more rules are introduced to try to prevent mistakes, but in many cases the rules just create more complexity and confusion. The vicious cycle continues, but now with more steps and more resources churning away hours in the attempt to keep up.

At this point, the legal team begins to question, “Why is the situation not improving?”



WHERE ARE YOUR LEGAL DOLLARS BEING SPENT?

HOW ARE YOUR LEGAL PROVIDERS REDUCING COSTS?

ARE THEY COMMITTED TO IMPROVING THEIR PROCESSES?

Legal teams are typically motivated and open to ideas when the situation is dire, and legal process managers are equipped to take advantage of this mindset.



BUILDING TRUST

- HERE TO HELP; NO HIDDEN AGENDAS OR NEGATIVE RECOURSE
- PROVIDE THE TEAM A VOICE
- MAKE IT THEIR IDEA
- GIVE ALL THE GLORY TO TEAM

A CONTINUOUS IMPROVEMENT APPROACH

Although a more proactive effort on the front end is preferred, legal process managers are accustomed to entering into high-stress situations. Legal teams are typically motivated and open to ideas when the situation is dire, and legal process managers are equipped to take advantage of this mindset.

However, there is still the all-important *TRUST* factor, so how do legal process managers, “invite themselves to the party”?

MOST RELY ON THE FOLLOWING PRINCIPLES IN ORDER TO BUILD TRUST WITH THE TEAM:

- Establish the motive: Here to HELP the team with no hidden agendas
- Assure the team that no person will be penalized or reprimanded as a result of the project
- Listen, listen and listen while refraining from initial suggestions or assumptions
- Convert team concerns into their ideas for solutions
- Guarantee the glory goes to the team, not the legal process manager

Once the legal process manager engages with the team, the first step is to define the current state, and the most effective approach is process mapping. Although the concept is simple, a trained legal project manager can steer the team to provide the right amount of detail and to highlight issues along the way.

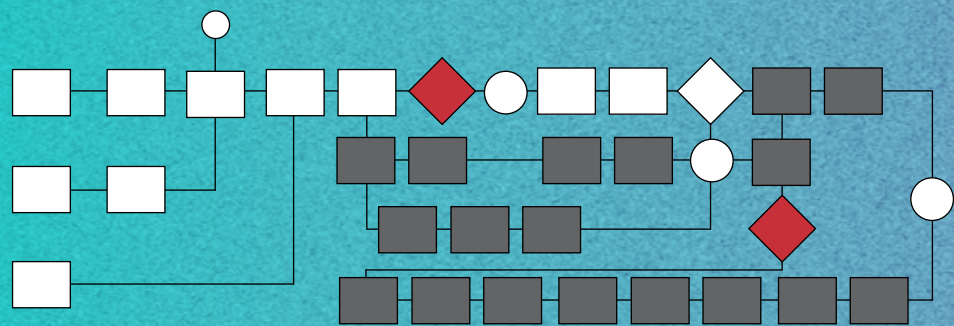
In this example of document and data intake for new cases, the process is initially designed for lower volumes with minimum data requirements. As the litigation grows, steps are added to the process to address additional requests, but those steps are not evaluated against their effect on the entire system.

FORTUNATELY, THE PROCESS MAP QUICKLY IDENTIFIES THE MAJOR PROBLEM AREAS:

- **Waiting.** Due to process sequencing, multiple choke-points exist, preventing team members from completing their responsibility, which results in large quantities of work-in-process (WIP). Constant start/stop activities drive inefficiency as team members expend time to refamiliarize themselves with the document. In legal process management terms, this step is referred to as “setup time.”
- **Inventory.** High levels of WIP require additional management burden until the work is complete. Team members are forced to find creative ways to maintain multiple statuses of each document based on what work has been performed. This type of activity is often referred to as the “hidden factory.”
- **Over-processing.** The process flow diagram also reveals that documents are touched by various paralegals and attorneys multiple times. In some cases, as many as 10 different occasions before the processing is complete. Instead, the goal is to process incoming documentation as quickly and efficiently as possible with a minimum amount of touches. With multiple individuals picking up and putting down the same documents, the document management system (DMS) and statistical databases reflect duplicative instances of the same information. Again, unnecessary redundant work.

TYPICAL PROBLEMS

- PROCESS CHOKe POINTS
- WIP/INVENTORIES
- OVER-PROCESSING
- REDUNDANT WORK



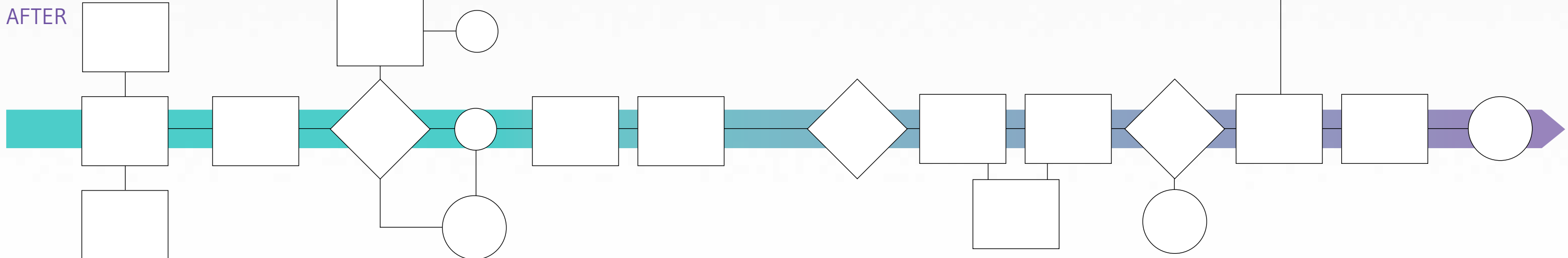
BEFORE

INITIAL FINDINGS

- Backlog Issues
- Process Redundancies and Unnecessary Processing
- Opportunity to Improve Standardization
- Unbalanced Allocation of Staffing
- Teams Working Independently
- Change Management Deficiencies

RE-ENGINEERED PROCESS

- Backlog Eliminated
- 50% Reduction in Process Steps
- Eliminated reoccurring ours of Over-processing and Redundant Work
- Developed over (15) Flow Charts and (30) Protocols for Standardization
- Created Knowledge Center for Team Training and Process Updates
- Re-allocated Resources to Address Capacity Issues and to Create a More Flexible Workforce with Cross-Training



AFTER

Documents are touched by various paralegals and attorneys multiple times. In some cases, as many as ten different occasions before processing is complete.

RESULTS

With a well-defined current state and a process flow diagram exposing the opportunities for improvement, the legal team in collaboration with the legal project manager devises a set of solutions.

Through implementation of their ideas utilizing a LEAN system re-engineering approach, the team is able to eliminate 50 percent of the steps from the process. Intake backlogs along with redundant processing times are also eliminated. As by-products of these changes, reporting accuracy improves, well-defined protocols are created and team members are able to cross-train, thus creating a more flexible workforce.

Although mass tort litigation provides an illustration of costs on a grand scale, opportunities exist in legal processes regardless of the area of law or the size of the practice. A continuous improvement culture is a key ingredient of *Legal Process Management*, as every day you don't do this, you pay dearly for it.

In future editions of *Pro Te Solutio*, the *LPM* conversation continues, providing an inside look at concepts and tools, such as workflow mapping and identifying waste in legal processes, which are the fabric of this client-value-driven approach. ■



By Thomas Agostinelli

NEW AND NOTEWORTHY

A JUDGE LOOKS TO THE INTERNET FOR DRUG INFORMATION.

Seventh Circuit Judge Richard Posner has stirred up a hornet's nest by going to the internet independently to find facts he believed to be relevant to the appeal of a grant of summary judgment.

In *Rowe v. Gibson*, 2015 WL 4934970 (7th Cir. Aug. 19, 2015), a prisoner representing himself asserted that he had been cruelly and unusually punished by the way the prison had administered ranitidine, a drug he needed to treat a painful gastroesophageal reflux disease. Ranitidine is made in prescription strength by GlaxoSmithKline and in over-the-counter form by Boehringer Ingelheim and sold under the trade name Zantac. The district court granted summary judgment based on a doctor's affidavit which said that giving a dose every 12 hours was sufficient. The prisoner said the failure to administer a dose 30 to 60 minutes before each meal needlessly inflicted pain.

The Seventh Circuit reversed the summary judgment and said the case presented fact issues that needed to be tried. Judge Posner's opinion discussed at length information he personally found on the internet—principally the Boehringer Ingelheim and Mayo Clinic websites—which he said supported the prisoner's claim. He justified his departure from the record before him by saying that he was not treating the website information as being conclusively true. Rather, he was only using it to suggest a fact dispute because it might be true.

Judge Hamilton, in dissent, decried the departure from the record that was made in the district court. Judge Posner's internet research also departs from the ABA's 2008 Model Code of Judicial Conduct Rule 2.9(c), which specifically instructs judges not to investigate the facts of cases independently. ■



By Luther Munford