

Lean Six Sigma for Law Firms

CATHERINE ALMAN MACDONAGH



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is published by Ark Group in association with Managing Partner



UK/EUROPE/ASIA OFFICE

Ark Conferences Ltd
6-14 Underwood Street
London N1 7JQ
United Kingdom
Tel +44 (0)207 566 5792
Fax +44 (0)20 7324 2373
publishing@ark-group.com

NORTH AMERICA OFFICE

Ark Group Inc
4408 N. Rockwood Drive
Suite 150
Peoria IL 61614
United States
Tel +1 309 495 2853
Fax +1 309 495 2858
publishingna@ark-group.com

AUSTRALIA/NZ OFFICE

Ark Group Australia Pty Ltd
Main Level
83 Walker Street
North Sydney NSW 2060
Australia
Tel +61 1300 550 662
Fax +61 1300 550 663
aga@arkgroupasia.com

Head of Content Strategy

Fiona Tucker
fiona.tucker@wilmington.co.uk

Marketing Assistant

Irene Pardo
irene.pardo@ark-group.com

ISBN:

978-1-78358-111-5 (hard copy)
978-1-78358-112-2 (PDF)

Reports Content Manager

Helen Roche
helen.roche@ark-group.com

US enquiries

Daniel Smallwood
dsmallwood@ark-group.com

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Assistant Editor

Laura Slater
laura.slater@ark-group.com

Australia/NZ enquiries

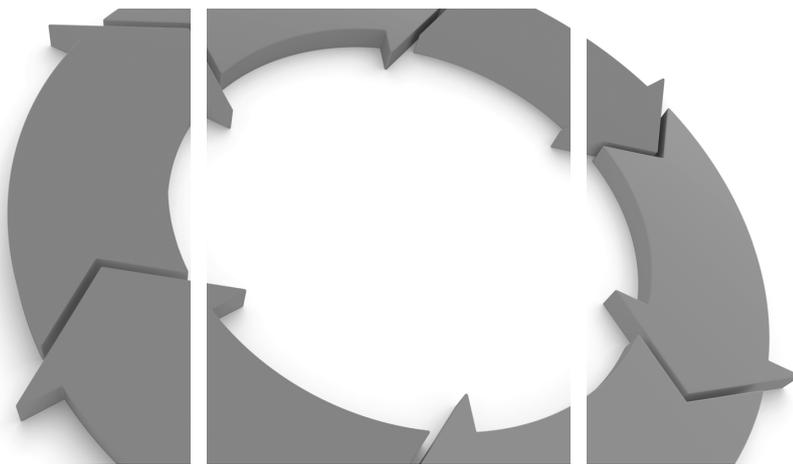
Steve Oesterreich
aga@arkgroupasia.com

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Executive summary

THIS REPORT is a thought leadership piece that aspires to relate the foundational concepts and vocabulary of Lean and Six Sigma and reports on how they are currently being employed in a legal context.

All law firms, wherever they may fall on the process improvement continuum, will benefit from learning about the use of Lean and Six Sigma in a legal context. Whether your firm is just beginning to hear about process improvement and project management, has started to develop skills and undertake projects, or has a fully branded initiative based on Lean Six Sigma, this report is intended to serve as a resource.

At this point, many firms have already embarked on their continuous improvement journeys. Still, many firms remain at the opposite end of the spectrum and are just “beginning to think about starting”. Firms who have been waiting to find out how this is working for others will learn plenty from those who have gone before them. Some will be their direct competitors, driving them from a position of mere interest to necessity. Competitor firms may already have robust programs in place with cadres of skilled Lean and Six Sigma practitioners, a host of project managers, and dozens of completed projects backed by millions of dollars in improvement benefits.

In addition to discussions about Lean, Six Sigma, and other methodologies most helpful to those in the legal profession, this report will shine a light on firms that are already

employing process improvement approaches and tools. For every firm that has launched a marketing campaign around its activities or is profiled in this report, there are dozens of firms – small, medium, and large – that are quietly and seriously developing competitive advantages via process improvement.

Understandably, many firms are sensitive about the type and level of information they wish to share and make available in the marketplace. Others are using their successes as the cornerstone of their strategic plans and marketing efforts.

The point is that there is no single “right way” to do this work. The important thing is to begin to create a culture of continuous improvement in law firms. Why? Because when we do this work, we not only improve the process on which we are working, we also deliver greater value, efficiency, and predictability while increasing our quality and likelihood of successful outcomes. If that is not enough, keep this in mind: this is all done without tradeoffs; rather, it is a win-win for both the client and the firm.

I aim to accomplish several things in this report: 1) to explain what Lean and Six Sigma are; 2) to make the connection between Lean, Six Sigma, and project management; 3) to demonstrate the different ways in which Lean and Six Sigma may be employed in the legal profession; 4) to publish a preliminary collection of ideas, case studies, and legal examples for the first report of its kind on the topic of legal process improvement; and 5) to accelerate a

shift toward the applicability and acceptance of process improvement in the legal profession as significantly closer to the norm. The early adopters in this space have much to teach us.

In summary, this report is for those interested in learning about the different approaches to Lean/Six Sigma, where to get started, and what the results have been for those who have already tried it.

The idea is to facilitate the adoption of process improvement strategies in law firms by defining Lean and Six Sigma and then conveying how those concepts might apply in a practical sense to the legal space. This will help firms to answer the following questions, which they should ask themselves before embarking on any process improvement program, since the discussions, considerations, and decisions will be different for each firm:

- How can we use the methodologies and toolkits of Lean and Six Sigma?
- How do we make a decision about when and where to start?
- What are our drivers for employing process improvement?
- What are the specific applications, obstacles, and lessons learned from what others have tried?
- What results have been achieved – what kinds of improvements have been made and how do they translate into benefits?
- In what ways do the framework and outcomes of process improvement help us change the conversation we have with our clients, referral sources, and prospective clients?
- How do we use process improvement to deliver greater value to the firm and our clients?

- What competitive advantages can we develop by using Lean and Six Sigma at our firm?
- How do we structure a process improvement program?
- What's next?

As Jordan Furlong wrote, "Lawyers must accept and act upon a single new reality: we cannot continue to make a living in the law the way we used to... We must create sustainable cost advantages through adoption of technologies and processes."¹ Those who do so will not just survive but thrive. Those who ignore the opportunities that exist, right now, do so at their own risk.

Reference

1. Furlong, J. "You say you want a revolution" blog post, 20th December 2013; see www.law21.ca/2013/12/say-want-revolution.

About the author

CATHERINE ALMAN MACDONAGH, JD is a Legal Lean Sigma Black Belt and a certified Six Sigma Green Belt. A former corporate counsel, Catherine is well known for her thought leadership and successes as a law firm marketing and business development professional. Now a highly rated speaker and consultant, she works with professional services firms to create competitive advantages and organizational transformation through the development, planning, and implementation of innovative strategies, process improvement projects, and business development training and coaching programs.

Catherine is an adjunct faculty at Suffolk Law School and at George Washington University (Master's in Law Firm Management). She is also the Chief Enthusiasm Officer of The Legal Mocktail, an experiential networking training program, and has her own consulting practice, FIRM Guidance. She is a Co-Founder of the Legal Sales and Service Organization. Catherine is co-author of two books: *The Woman Lawyer's Rainmaking Game* and *The Law Firm Associate's Guide to Personal Marketing and Selling Skills*.

Catherine is a co-founder of the Legal Sales and Service Organization (LSSO). She served on the international board, as New England Chapter President and on many committee and task forces of the Legal Marketing Association (LMA). Honors and awards Catherine has received include: Elected Fellow, College of Law Practice Management, *Boston Business Journal's* 40 Under 40, two years on the prestigious MLF 50 (Marketing the Law Firm Top 50) List, and several Legal Marketing Association Your Honor Awards.

Catherine lives in Massachusetts with husband Colin, their children Alex and Sarah, and their two Havenese dogs, Abbie and Peaches.

Please contact Catherine at Catherine@LegalLeanSigma.com, (+001) 857 272 5695, and on Twitter @cathmacdonagh.

About the Legal Lean Sigma Institute

THE LEGAL Lean Sigma Institute, LLC (LLSI) is the first and only organization to develop and bring to law firms and legal departments a comprehensive set of process improvement (PI) and project management (PM) certification courses, training programs, and consulting services specifically designed for the legal profession. LLSI holds a registered trademark in the term Legal Lean Sigma®.

Legal Lean Sigma Institute faculty and consultants have worked on process improvement projects and delivered courses and programs for hundreds of leaders in the legal profession, both privately and publicly, including: ACC's Value Challenge Master Class; the Association of Legal Administrators (ALA) Annual Conference; ALA's Large Law Firm Retreat; the Legal Marketing Association's Annual Conference; LSSO's RainDance Conference; Managing Partner Forum; the College of Law Practice Management's Futures Conference; and at firm and corporate law department retreats.

History – The Creation of Legal Lean Sigma®

My interest in efficiency first took root after I graduated law school and became a corporate counsel for an insolvent insurance company. After observing how paper intensive, large loss claim files were handled – and how the estate was billed more the longer the work took – I would always look at how legal work was performed and delivered from the client's perspective. My understanding and perspective widened to include the law firm's viewpoint after serving in marketing and business development roles in several firms.

After earning a Green Belt certification in Six Sigma, I knew that the concepts of controlling variation to produce greater predictability, reduce errors, and so forth applied to legal but the reality is that it took me nearly a year to bridge what I had learned in the classroom to something that was useful to my work as a director of Business Development in a law firm. After finally trying some things and figuring out that adding Lean to the mix was important, I kept mentioning to my friend Wendy Duffey (in between discussions about the Boston Red Sox) that someone really ought to start teaching process improvement in the legal space.

One thing led to another and, thanks to Wendy's introduction, in 2008, I began to work with Laura J. Colcord, an expert with deep experience in process improvement in various applications and industries all over the world. Our task was to design and deliver educational programs that taught process improvement in contexts that would be immediately relevant and useful to lawyers and the business professionals who work with them.

The first Legal Lean Sigma® programs were offered under the umbrella of the Legal Sales and Service Organization (LSSO) – thanks to the interest and support of my colleagues and partners, Silvia L. Coulter and Beth Marie Cuzzone – and launched (as so many first to market ideas, services, and products are) at LSSO's RainDance Conference (also the first conference of its kind). Very quickly, the success of those endeavors, combined with the interest in consulting services, created a need for a

separate business structure and, in 2010, these offerings were split out of LSSO and the Legal Lean Sigma Institute LLC was formed.

In the same year, we began teaching our two-day, Yellow Belt certification course as adjunct faculty at George Washington University's Master's in Law Firm Management program. This has offered us the opportunity to work with seasoned, accomplished professionals; lawyers, administrators, marketers, IT, HR, and finance students both learn and teach us about the application of process improvement in various law firm settings.

In 2013, faculty were added to LLSI. In 2014, LLSI expanded the certification offerings by including another option, which was completely unique to the legal profession. LLSI's combined process improvement and project management program, was developed and is taught with Timothy B. Corcoran, a member of LLSI's adjunct faculty, 2014 president of the Legal Marketing Association, and principle, Corcoran Consulting Group.

Now, LLSI has delivered and supported projects to improve both legal and business processes, including:

- Practice-specific:
 - AA Plans;
 - E-Data/Exceptions;
 - OFCCP Audit;
 - Trademark registration; and
 - Single plaintiff discrimination/litigation.

- Business:
 - Responses to requests for proposals and information;
 - Events;
 - Time keeping and billing;
 - Lateral integration and employee on-boarding;
 - Staffing;
 - Document management; and
 - Facilities management.

We have developed programs and keynotes and certified thousands of leaders in Legal Lean Sigma® (and project management) at the White, Yellow, and Green Belt levels. Our certification courses have always been approved upon application for continuing legal education credit.

Our consulting practice encompasses the full spectrum of services associated with introducing, developing, and implementing process improvement programs, including strategic planning, structuring for success and organizational development, and project support with expert facilitation and Kaizen workshops.

We are now observing an interesting new wave: privately delivered certification courses for a law firm with invited clients and client teams at each table, learning and working together for the duration of the program. We are changing the conversation through the use of PI and the way we do PI work. In so doing, we are refining the process by which law firms and clients are engaging in relationships and cultivating cultures of continuous improvement.

Acknowledgements

OUT OF all of the things I've done professionally, process improvement in the legal profession is the most creative, fun, and challenging. It changes the conversation from "us/them" to just "us". It provides the framework and tools that allow us to translate vision into strategy, and strategy into tactics in ways that are competitive, yet allow everyone to win. It's the most rewarding work I have ever done. It is not something one does alone, however, so I am indebted to many who make it possible for me to teach and work in this space.

Thank you to all of my clients: those who have embraced the work and mission of the Legal Lean Sigma Institute, all the Green, Yellow, and White Belts certified in Legal Lean Sigma®, I appreciate you giving us the opportunity to work with you and to improve the legal profession, one process at a time. Teaching people about Lean Sigma and working on projects has enabled me to work with some of the brightest people I have ever met and be part of high functioning and excellent teams – it is an honor. Each client and program participant has helped us to continuously improve our courses and consulting practice with feedback and suggestions.

Thank you, Carl A. Leonard and Dr. Stephen Chitwood, for your early and ongoing support. It is an enormous privilege to teach Legal Lean Sigma® in George Washington University's Master's in Law Firm Management Program and I thank you for the opportunities to work with you. Thank you to each and every impressive student for allowing me to learn from you in the process of teaching.

Thank you to Suffolk University Law School for the chance to teach the first combined process improvement and project management course in a law school, especially Andrew Perlman (director, Institute on Law Practice Technology and Innovation, director, Legal Technology and Innovation Concentration, professor of Law) and Ilene Seidman (associate dean for Academic Affairs and clinical professor of Law). You are pioneers and I thank you for allowing me to take part in the transformation of legal education with you. A very special thank you to the Suffolk Law students who became the first law school class in the world to be certified Legal Lean Sigma Yellow Belts in the spring 2014 semester.

Most importantly, as always, I thank my family, friends, and colleagues for their love and support with special appreciation to Colin for holding down the fort while I travel for work. You have been the reason I have been able to pursue and realize my entrepreneurial dreams, including launching the Legal Lean Sigma Institute. To my children, Sarah and Alex, the lights of my life, thank you for your sacrifices; it isn't easy to have a Mom who travels so much. I'm grateful to have the good fortune of showing you that when you are able to do something you truly enjoy, it doesn't seem so much like work. My wish is that you both find that thing that brings you the same, immense personal and professional satisfaction and sense of fulfillment.

Cheers to all who are working to improve processes in the legal profession around the world; I hope to learn about the results of your efforts and wish you great success.

Catherine Alman MacDonagh, JD

Foreword

IN 1999, under the leadership of CEO and chairman Chad Holliday, DuPont embarked upon its Six Sigma journey, which was designed to eliminate costs, drive efficiency, and accelerate the Company's transformation. It was clearly understood by all corporate officers in attendance at this kick-off that no business, staff function, or region was exempt. This was a business imperative – one that could arguably determine the company's future. While our initial focus was upon cost reduction, the power of Six Sigma was, as we subsequently learned, more than that. Shortly thereafter, I was tapped to assume the role of Six Sigma champion for Legal.

While Six Sigma was initially met with skepticism in some quarters, Legal leadership had gained considerable credibility over the previous eight years in leading a law firm and supplier convergence process and in the implementation of the DuPont Legal Model, which emphasized the importance of applying business discipline and data in our representation of DuPont. In short, we were able to recognize early on that process improvement matters and that, if it was embraced by Legal, it could provide us a means to contribute to the company's transformation. So, we began to implement function-wide Six Sigma with no practice group, profession, or region exempted.

As an aside, several years into the initiative at a subsequent corporate officers meeting, our outside speaker, Jeff Immelt, who was among two others vying to succeed Jack Welch as CEO of General Electric, spoke to the group about the power of Six Sigma. At this point, GE was "all in" and was driving this initiative throughout the corporation with typical Jack Welch intensity. Mr. Immelt spoke with great persuasion and intensity about the impact of Six Sigma upon GE. And as if that wasn't compelling enough, he stated to the officers in attendance, "And even the lawyers can do it!" That was all that I needed as further provocation. From that point forward, we drove process improvement at all levels of the organization and with our network of providers with great resolve.

The impact upon our culture through the implementation of Six Sigma has been incredibly forceful and telling. Under the broad heading of process improvement, our professionals have developed and honed their leadership, communication, and collaboration skills – and, most significantly, their bottom-line focus. The program has evolved to embrace certainly Six Sigma, Lean Six Sigma, and project management – all of which serve to drive process improvement. Collectively, these tools have served to enable Legal to speak the language of the business, drive efficiency, and deliver superior results by any metric or criterion one might choose.

So I applaud Catherine in creating this primer on process improvement. It is critically needed by our profession, which suffers all too often from the perception that lawyers, and perhaps others that labor in this field, are above it all, and that business discipline and process add little value, and may even undermine our creativity and professionalism. So, let me close by observing that the examples shared in this publication of lawyers applying process improvement methodologies and tools are very compelling and serve as testament to Mr. Immelt's observation that "Even the lawyers can do it". Yes, they can!!

Thomas L. Sager, senior vice president and general counsel, DuPont Legal

Introduction: Diagnosing and overcoming lawyers' resistance to process improvement

By Jordan Furlong, author, consultant, and legal industry analyst

MANY LAWYERS show ongoing reluctance, in the face of overwhelming market pressures, to fully adopt the principles and practices of business process improvement.

Consider the following elements of the global legal market in 2014.

- All but the most elite large and midsize law firms in the US, the UK, and Canada are bleeding: revenue is down; realization is nearing 80 per cent; profits have fallen; clients are driving change; and partners are angry or scared. The cutting, and the firing, and the free-agent lateral hiring has all been done; there is nothing left now but recognition and acceptance that the traditional law firm business structure is no longer competitive in this market.

Lawyer control of the legal market is fading fast: In England and Wales, more than 300 alternative business structures, owned wholly or in part by people who are not lawyers, now provide legal services; three US states have either licensed “non-lawyers” to provide basic services or are figuring out how to do so; independent paralegals are licensed by law societies (or on the way there) in four Canadian provinces, with ABSs not far behind.

- Legal technology and process companies are in ascendance: Neota Logic has partnered with two Amlaw 100 law

firms; United Lex has taken over the litigation support functions of a third; LegalZoom is working with ODR pioneer Modria. Novus Law is taking untold dollars away from law firms. Apps can draft contracts and answer legal questions. Predictive coding is taking discovery work away from litigators. And on and on.

- New ways to organize legal talent and sell its services are flourishing: Four major British law firms (Berwin Leighton Paisner, Eversheds, Pinsent Masons, and Allen & Overy) have set up affiliated project lawyer agencies; Axiom Law is taking on complete deal work; Keystone Law is expanding to Australia; Quality Solicitors is offering a completely new business model to consumer law providers (at fixed prices, no less); LegalZoom has soft-launched in the UK in conjunction with Quality Solicitors, neck-and-neck with Rocket Lawyer.

And yet I still see people in this industry asking, “Where’s the revolution? When is the change going to come?” Folks, *the change is here*. We’re living it. Cast your mind back about five years – when Richard Susskind had just published *The End of Lawyers?* – and ask yourself whether you thought this much upheaval, and advancement, and innovation was possible in such a short period. Cast it back ten years, when the “blawgosphere” barely existed, and ask the same. The

legal market is becoming more diverse and more accessible every year; legal services are more affordable and more predictably priced every year.

Most importantly, the pace of that change is accelerating. Alternatives to the traditional – in terms of service providers, business models, workflow systems, delivery vehicles, pricing strategies, and so on – are becoming normalized; that is, they're spoken of less frequently as "alternative" and more frequently as simply another option. We don't even talk about the "new normal" as much – it's all becoming normal. These are not the signs of change in retreat; these are the signs of change becoming mainstream – ceasing to be "change" and starting to become "the way things are".

The problem is that everyone seems to have received the memo about change in the legal market – except the legal profession itself. Too many lawyers still place their hands firmly over their ears when these conversations begin – or, if they do listen, they immediately come up with all sorts of reasons why their own corner of the legal world will stay the same, or why they could not possibly undertake any of the necessary responses without destroying their businesses or abandoning their professional duties. These are the rationalizations of people who resist change primarily on the grounds that they just do not want to do it.

An excellent example can be found in lawyers' ongoing reluctance to truly embrace business process improvement within their firms. For a profession suffering from aggravated clients, shrinking revenues, competitive inertia, archaic business practices, and system waste, process improvement is the nearest we will come to meeting the definition of "panacea". It is easy to understand, inexpensive to implement, lowers costs, improves quality, enhances

communication, facilitates lawyer training, makes fixed fees profitable, and makes clients happy. If it could cure disease and direct an Oscar-winning movie, it could hardly be a more attractive proposition.

And yet, with few (albeit happily increasing) exceptions, there is still not much enthusiasm for it among lawyers and law firms. There is an odd reluctance to embrace something that clearly delivers so many benefits. Identifying the source of that reluctance tells us something important about lawyers and our capacity to adapt to this new legal marketplace.

"It's pretty tough to get lawyers to change their ways," said one partner at a big firm that is starting to implement legal project management. Another partner approached LPM training with a familiar apprehension: "Doesn't this apply only to commodity practices?" Resistance to innovation fits lawyers to a T. But what really comes across from these accounts is a sense that lawyers are not trying process improvement or workflow management primarily because they do not want to do so.

This resistance does not, I think, have much to do with lawyers' inability to grasp process improvement's features or benefits. I think it has much more to do with lawyers' dislike of procedure, systematization, methodology, routine – with "process", a word many lawyers still use with a certain amount of distaste.

I think that is because we lawyers pride ourselves on our capacity for ingenuity: the unexpected insight that makes a deal possible, the brilliant argument that turns a trial around, the stroke of inspiration that not only saves the day but also shows off just how bright we are. Smart people are drawn to the law like moths to a flame, and one of the things about smart people is that we prize raw intelligence over plodding

procedure. We use loaded adjectives – “drudge”, “mindless”, “humdrum”, “grunt” (and several less polite words) – to describe legal work that requires limited imagination, consistency over brilliance, and a lot of attention to detail.

Now, any real reflection on the matter will show that work of this nature is no less valuable or worthy than the racier, hyper-intelligent work most lawyers crave – but in our professional culture, there is a clear distinction between the two, and it matters. (In this same vein, note the tone in which lawyers say the word “commoditization”.)

It is a distinction, unfortunately, that we draw at our peril. Our competitors, some inside the legal profession but most of them outside it, have no qualms about embracing workflow improvement and the systems-based benefits it confers. They look at the way lawyers have traditionally gone about our work, and they see countless inefficiencies just asking to be exploited.

Whenever a legal task is subjected to a flowchart, outsourced to a lower-cost resource, or converted to a software algorithm, process improvement is at work, exposing all the ways in which traditional lawyering not only wastes time and money but also fails to deliver the most effective and accurate result. We give document review and due diligence tasks to bright young associates with zero training and zero interest in the job; our competitors apply rigorous scanning, screening, and review templates by trained workers who actually like to do this sort of thing. Who do you suppose gets better results?

The day of the haphazard lawyer, who pursues solutions by intuition, experience, and the loosest possible timetable, is drawing to a close. In her place is emerging the process-driven lawyer: disciplined, procedural, and systematic, who understands that madness lies not in method, but in its absence.

Most lawyers do not like that idea. We would much prefer to maintain the image of the ingenious lawyer who triumphs by intellect rather than by procedural discipline. It confirms our belief in our innate intellectual advantage over non-lawyer competitors – and, frankly, it makes us feel better about ourselves. At some level, we take offense at the idea of process improvement because it seems to reduce this wonderful profession of ours to little more than a series of steps, a collection of decision trees that anyone could follow.

The truth is, much of what lawyers do can in fact be charted, diagrammed, and proceduralized, and both the quality and the cost will be better for it. But that does not mean there is no room for smart, creative lawyers in the future.

For one thing, systems do not need to be straightforward and monotonous. More often than not, especially in the law, they are complex and challenging, and they can easily be made elegant, precise, finely tuned, honed to a keen edge – the imagery of swordsmanship is intentional. Even within systems, a lawyer’s unique judgment, analysis, and creativity can emerge.

Legal service providers who adopt systematic workflow processes will be more successful than those who do not; there is no doubt in my mind about this. So like it or not, we will have to embrace this new methodology. But what I really want to urge lawyers to do is, in fact, to like it.

Process is not a diminution of our intellectual gifts; it is the honing, disciplining, and improvement of them. Frameworks and road maps have never hurt anyone; they have gotten things built and changed lives far more effectively and comfortably than we could have managed in their absence. Take a new approach to process – look at it with a fresh eye, and see what it can add to your professional life rather than what it can

take away. Process does not have to be a necessary evil. It can easily be a necessary good.

Jordan Furlong is an author, consultant, and legal industry analyst who tracks the rapidly changing legal services environment and advises law firms and legal organizations how best to respond. He writes about the new legal market at the award-winning blog Law21.ca, from which parts of this article were adapted. Furlong's blog, Law21: Dispatches from a Legal Profession on the Brink, has been named one of the 100 best law blogs in North America for six straight years by the ABA Journal.