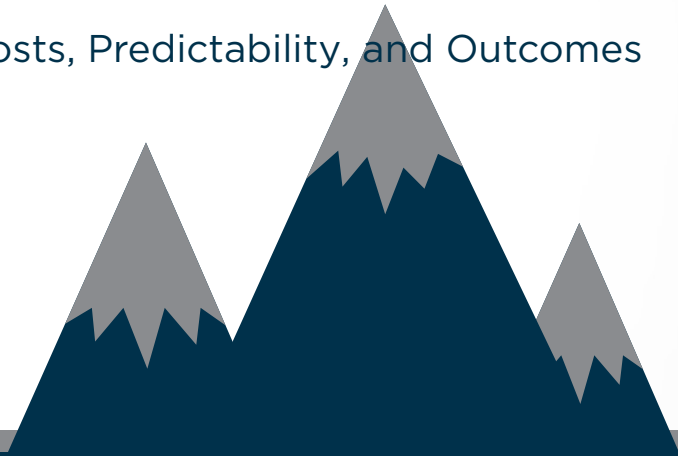




2019 ACC VALUE CHAMPIONS

Improving Costs, Predictability, and Outcomes



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As we mark our eighth year of selecting and celebrating ACC Value Champions, we can see an evolution toward greater adoption and adaptation of business practices within legal departments, and with growing sophistication.

Whereas we used to think of in-house legal departments as co-located law firms and advocated for general counsel to have a seat at the business decision-making table, we now see them becoming more ingrained into the business as they embrace techniques that have worked in other departments. Where Lean was once the purview of manufacturing, Design Thinking the tool for product development, and Agile the province of software programmers and coders, these approaches have infiltrated in-house departments to the ultimate benefit of legal and the entire business. There is no mandate. Rather, legal executives employ these techniques to revamp legal service delivery when corporate strategic challenges demand new approaches.

The 2019 Value Champions provide successful examples of applying these techniques as they sought creative ways to tackle the challenges they face. They form a diverse group that includes financial institutions, a retail chain, and companies engaged in automotive and pharmaceutical manufacturing, engineering, insurance, telecommunications, and mining, they represent the quest for improved costs, predictability, and outcomes in South Africa, Australia, Europe, and the United States. The nominations

were assessed by 2018 Champs Kristen Cook, associate general counsel for 7-Eleven; Stan Smith, senior vice president and general counsel for Software AG; and Doris Gilliam, associate general counsel for AARP.

“These Value Champions have demonstrated agility in applying business skills to address the challenges they face. They show how leading legal departments are applying client-centric process improvement models, using an array of sourcing and staffing models, sophisticated pricing models for outsourced legal work, and not just buying but also building technology applications to optimize delivery of legal services,” said Catherine J. Moynihan, associate vice president for legal services at the Association for Corporate Counsel. “It is gratifying to see the growth in depth and breadth of creative solutions to strategic imperatives.”

Process efficiency was the name of the game for a large subset of 2019 Champs. **Rabo AgriFinance LLC** (RAF) leveraged the corporate-wide adoption of Lean Six Sigma to address challenges in loan processing time. Discovering that the bank’s loan documentation and legal review process was inconsistent and inefficient, causing lengthy turnaround times, the members of the legal department turned the lens on themselves. Taking a good, hard look, the team decided the work would be better handled through outsourcing. Working with outside counsel at **Thompson Coburn**, they used data to create a new legal review model that assures predictability and appropriate staffing levels. Turnaround time has been reduced by 70 percent.

The legal department at **Sonae**, a multinational corporation in Portugal with a strong retail presence, made a similar discovery about the way in which they handled employee disciplinary actions. Finding that the internal proceedings averaged 90 days, they set about to improve the process and shorten the duration of those proceedings. Embracing the company’s use of Agile techniques, the legal department conducted a process mapping exercise that revealed key areas for improvement, which they tackled by developing a process management software solution in-house. Duration of the disciplinary proceedings has been reduced by nearly 30 percent while the number of cases handled has increased by more than 10 percent.

Telstra, an Australian telecommunications company, pursued process efficiency as a way to address the business challenges that had beset the company and its industry. To carry on after the painful loss of 25 percent of the legal team due to downsizing, the reorganized department adopted Agile practices to track, manage, and continuously improve its workload. Needing to reduce costs and improve performance of the legal function, the team created a streamlined new operating model aligned to practice areas that would allow the lawyers to focus on corporate strategic priorities, organized around key workstreams.

The small legal team at **Hatch**, a global engineering firm headquartered in Brisbane, Australia, embraced Design Thinking to re-engineer their processes in response to increasing workload. Working with co-Champ **Lexvoco**, an Australian NewLaw firm, they built an internal SharePoint site that makes contracts and legal resources more accessible and is organized around helping the

company win new business. This path to client self-service has reduced routine work by two-thirds, allowing the legal team to focus on high-value issues and opportunities.

Toyota Motors North America (TMNA), a member of the process improvement vanguard, has its own formal continuous improvement process known as Plan, Do, Check, Act (PDCA). Faced with the challenge of taking value for legal spend to the next level, TMNA partnered with co-Champ **Counsel Management Group (CMG)** to arrive at a data-driven understanding of cost. Pricing matters on a unit cost basis, with clearly articulated scope assumptions, has enabled Toyota to realize budget predictability within a 10 percent range while reducing spend by 17 percent annually.

At insurance company **MassMutual**, the legal operations team applied the corporate Lean mindset as they worked with data scientists to identify blocks of litigation appropriate for more sophisticated alternative fee arrangements. Data modeling helped them formulate an agreement with a new national coordinating counsel with an informed idea of what the work should cost. Results include a legal spend reduction of more than 12 percent per matter, and collaboration on a Lean approach also delivered a reduction in matter duration of more than 40 percent.

Many Champs this year employed sophisticated strategic partnering to achieve their value program goals. The hallmarks of these partnerships are deep mutual understanding and trust, as well as seamless integration of external resources into in-house efforts and teams. For example, **Deutsche Bank** expanded its relationship with LPO and co-Champ **QuisLex** (also honored in 2018) not only to bring artificial intelligence to eDiscovery but to engage in a partnership that represents a melding of internal and external teams. The cost of managed review has declined by nearly half.

Deutsche Bank and QuisLex also homed in on the high costs of eDiscovery. By enforcing standardization and building a tech-enabled review process that uses automation to perform previously manual tasks, the co-Champs brought in more than 90 percent of managed review projects on time and within budget.

More intertwined people, processes, and technologies are also evident in the sophisticated partnership forged by **Anglo American**, a South African mining company, and LPO **Exigent**. Like Telstra, Anglo American encountered industry difficulties that resulted in a downsized legal department. But the company's pre-existing relationship with Exigent positioned it well to withstand the changes and do the work. A dedicated Exigent team began to work onsite at Anglo American, melding itself into the in-house team and taking on low-value work so the Anglo American lawyers could focus on the high-value work crucial to their business. Contract turnaround times were reduced sevenfold.

As is common among Value Champions, many of this year's winners found innovative ways to use technology to solve their departmental challenges. Pharmaceutical manufacturer **AbbVie's** new legal operations team secured their can-do image by bringing litigation data processing in-house, essentially positioning themselves as an e-discovery vendor inside company walls. Once that competency was in place, they also combined their document review databases and began hosting those themselves. All told, these efforts represent approximately US\$4 million in avoided spend, plus value-add to their colleagues in litigation as they consult on early case assessments.

While the AbbVie legal ops team took a DIY approach to eDiscovery, several other Champs have built systems that encourage internal clients to do it themselves. Computer security company **McAfee** created Hoot, a technology solution that automatically routes legal queries to the correct reviewers and provides pre-programmed answers to common questions. As a result, costs have declined by more than 60 percent and reviews for product updates can be done in a week.

The Hatch/Lexvoco SharePoint site makes it easy for salespeople to help themselves to contract templates, confidentiality agreement forms, and other commonly requested documents. Post-downsizing, a new digital front door — an interactive web form — allows the Telstra legal team to continue to serve with an enhanced understanding of internal clients' requirements and instructions. Sonae's new process management software solution integrates a knowledge management platform that archives documents users can adapt and share.

Alternative fee arrangements based on a mutual understanding of value remain critical to current and aspiring Value Champions' quest for greater value from legal spend. The pricing methodologies used by both Toyota and MassMutual are significant because so many lawyers, both in-house and outside, still try to estimate costs by figuring out how many hours certain tasks or matters will take; whereas these companies use unit cost as a different kind of building block, documenting assumptions so that the matter budgets flex appropriately with changes in scope. Flexibility leads to sustainability of the pricing models, and even more important, predictable spending.

To hear more about the 2019 Value Champions and innovative legal practices that improve costs, predictability, and outcomes, attend the three ACC Value Champions sessions at the ACC 2019 Annual Meeting in Phoenix, Arizona, October 27-30, 2019.

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METRICS



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ABBVIE

TURNING EDISCOVERY OPERATIONS INTO AN ASSET



Left to right, David Berry, Shalin Patel, Matthew Gasaway, Jennifer Lagunas, Sam Ranganathan, Constance Mockaitis, Jarobi Kemp, Sutesh Patel

AbbVie is a global pharmaceutical company that was formed in 2013 after a split from Abbott Laboratories. At the time of the split, AbbVie's legal operations team had an opportunity to redefine their roles and take on new responsibilities in the new company. The ever-increasing amount of data gathered during eDiscovery posed a continuing problem: Data processing spend was growing at an unsustainable rate. Every litigation matter required new forensic collections and data preservation, and that data would often need to be re-processed for subsequent litigation. The team's initial foray into bringing those tasks in-house involved facilitating the separation of litigation data between Abbott and AbbVie. Then the true opportunity came just a few months later: two large, high-impact litigation matters, each of which would require the collection, processing, and hosting of data for several hundred custodians.

The team brought all of AbbVie's data collection and data processing in-house. With the addition of a data processing platform and forensic examiners to the department, AbbVie eDiscovery essentially became an eDiscovery

vendor inside AbbVie's walls. The eDiscovery group, a part of the 12-person legal operations function, has the company's IP and commercial litigation teams as their main internal clients.

Having built up the necessary infrastructure for the Abbott/AbbVie data separation project, the team was well positioned to embark on an initiative that would save significant amounts of money and time by bringing those services in-house. **An internal culture of “intrapreneurship,” empowerment, and encouragement paved the way; the initial phase of the project went from whiteboard to implementation within eight months.**

By mid-2015, AbbVie legal operations was performing eDiscovery data processing tasks for all AbbVie litigation, performing forensic collections in conjunction with the internal IT department, then de-duplicating those new collections against legacy litigation data archives in order to create a single set of processed data that is ready to be uploaded for document review. While the shift to internal data processing was a substantial departure from proven, existing workflows, the eDiscovery group focused on communication and transparency, so their internal litigation clients would know exactly what to expect. They also held themselves to a high standard.

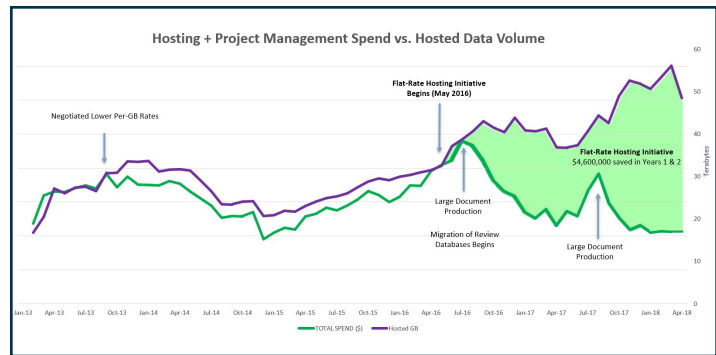
“We knew that we had to offer a service level like that of previous outside vendors,” says

Matthew Gasaway, director and senior counsel of the group. “We wanted to minimize the effect of eDiscovery costs on litigation decision making and make sure that our litigation teams didn’t have to worry about unexpected eDiscovery spend impacting their budgets.”

The switch to internal data processing has resulted in an average avoided spend in excess of US\$2 million annually. Further, the group created a single, de-duplicated archive of each employee’s legacy litigation data that has streamlined AbbVie’s management and analysis of that data. During litigation, the eDiscovery team can provide counsel with immediate information about the quantity and substance of litigation data it has for a specific employee in moments, assisting with early case assessment.

The team advises on these and other best practices in their dual role as internal consultants. “We advise on how best to improve legal hold practices, how to adapt the process to get the best results, and work to create metrics for our clients so they can watch efficiencies and trends,” explains Constance Mockaitis, associate director of the group. The group holds monthly meetings with the litigation teams to review best practices, general issues within eDiscovery, and operational considerations.

Next, the legal operations team moved on to the second part of its two-pronged eDiscovery cost problem: data hosting. Like many large companies, AbbVie maintained dozens of terabytes of document review databases with multiple providers, at a range of per-gigabyte



rates. This resulted in such inefficiencies as paying to host multiple copies of duplicative data and made it difficult to ensure a consistent process for document review. Once again, the team issued an RFP to select a single data hosting provider.

AbbVie found that combining its databases made it possible to host all its litigation data at a single low fixed rate, resulting in decreased hosting spend even as its hosted data sizes doubled, providing an additional US\$2 million in annual savings and dramatically improving budget predictability.

But the benefits were more than financial: By aggregating its document reviews into a single hosted platform, AbbVie was able to publish and ensure adoption of a unified document review protocol, ensuring a consistent process for review, global de-duplication, and the use of advanced analytics.

“This solution allows our internal clients to focus on what’s important to them,” Mockaitis says.

FROM THE JUDGES

“Managing eDiscovery is challenging, so I was impressed by this project. Other companies looking to save on data processing and hosting can use it as a model to emulate.”



ANGLO AMERICAN AND EXIGENT

PARTNERING TO PROVIDE LEGAL SERVICES AND INFORM OUTSIDE COUNSEL MANAGEMENT



From left right, back row, Ntombi Mbowane, Itumeleng Sole, Fiona Edmondson, Lorraine Scheepers, Chris de Jager, Michael Murray, Matthew Welz, Bridget van der Bijl, Middle: Tsitsi Matemera, Philile Mhlongo, Eugenio Menezes; front row, Nkikia Moshesh, Kevin Lester and Tshepo Legodi

When Anglo American, a global mining company, acquired a majority share in DeBeers in 2014, the legal department became an amalgamation of four previously distinct departments. “All were very disparate, very business unit-focused, with very different types of practices,” says Kevin Lester, head of group legal in South Africa. After trying to unite the 57-person department with a common vision and purpose, the mining industry encountered a downturn in 2015 as commodity prices plummeted and the legal department took a serious hit. Headcount was reduced by two-thirds. Fortunately, Lester had qualified assistance at his disposal. He had begun partnering with Exigent, a leading alternative legal services provider, several years before. Their strong partnership would stand Lester and the legal department in good stead as those challenging times arrived.

“Although working with an LPO can be quite difficult, the only reason we were able to survive was because our relationship with Exigent had already matured,” Lester says.

“We had established a level of trust, which was paramount to setting us up for success,”

says Nicola Stott, global managing director at Exigent. “Handing things over to an LPO can be uncomfortable, but that trust really helped the process of shaping the future state of the Anglo American legal department.”

After the headcount reduction, Lester found himself standing on “a burning platform of well-publicized litigation, high work quantity, low quality, and inconsistency.” It was critical that he keep the remaining senior members of the legal department engaged and on board with work that suited their skillsets: “We needed to start leveraging the excellence we had [in those senior people].”

To stabilize the department and deliver cohesive service, Anglo American and Exigent combined process mapping, legal spend analysis, analysis of opportunities to realize greater efficiency, and the creation of a dedicated Exigent team onsite at Anglo American. They did this within an atmosphere of collegial experimentation. “There was no well thought-out strategic vision,” Stott admits. “While for many, there might have been a tendency to panic, we both knew that we might not get it right at first.”

To improve processes, the team established a new resource model that balanced the significant reduction in internal headcount with lower-cost, flexible resources provided by Exigent, some of whom work onsite. “We are



Nicola Stott, Global Managing Director, Exigent



kinds of innovations had not yet come to South Africa. It's not as though anyone else was doing this rigorous examination of external spend," Lester says. "Individual lawyers felt that we were attacking their billing practices."

They incentivized external legal providers to work with LPOs to align with reorganization efforts and entered into long-term agreements to incentivize cooperation between their suppliers. Exigent provided project management expertise in legal department optimization.

Through the use of historical data about suppliers, Anglo American is now able to predict and plan for future expenditures, guided by a five-year strategy to control legal spend that leverages the Inform technology.

The company continues to lead the way in the South Africa legal community by globalizing their innovations, moving into alternative fee arrangements, and beginning to scrutinize the internal practices of their outside law firms.

"The radical change that the markets forced on us has endured well beyond the ensuing upturn," Lester says. "Our technology, partnership, and delivery team are faithful to the company mission and one that reacted in times of difficulty to build a long-term, sustainable model."

not at all embarrassed to take that low-value, high-volume work in the context of achieving tangible commercial outcomes for our clients," Stott says. "The teams truly complement one another." One key metric that speaks to that claim is the sevenfold reduction in contract turnaround times.

To cut spending, one must first know what one is spending, and where — but Lester did not. "No one knew what we were spending on outside counsel. We had to get a handle on it." Exigent developed a custom legal spend tool, Inform, initially for South Africa, but now rolled out to all Anglo American global jurisdictions. It allowed Lester to understand what activities Anglo American had been paying for. He began to institute more rigor into scoping and billing and conducted a convergence exercise that reduced outside counsel from 75 firms to 14; spend declined by 35 percent over three years.

The reorganization of processes drove cultural change within Anglo American that went beyond the legal department, as well as within the Johannesburg legal community. "These

FROM THE JUDGES

"The development of the Inform tool gave Anglo American's South Africa legal team important insights that allowed them to adapt to challenging times and pressing needs, and to develop a new hybrid model with Exigent that combines insourcing and outsourcing to ensure the work gets done."



DEUTSCHE BANK AND QUISLEX

TEAMING UP
TO INNOVATE
IN EDISCOVERY
MANAGEMENT



Deutsche Bank: Left to right, front row, Justin Alfano, Rose Battaglia, Kelli Stenstrom, Joe Salama, Joann Lane; back row, Andrew Stemmer, Randi Enison, Diana Hui, Matt Kalinowski, Kris Kwong, Keysha Dixon, Vijay Dewan, Stela Tipi, Greg Witczak, Eric Herbst, Jeff Nass, Amy Estefani, Tori Ellis (not pictured: Erika Engelson, Allison Cambria, Hannah Lee)

The holy grail of document review, as Deutsche Bank noted in its Value Challenge submission, is to find “all and only” the relevant documents during eDiscovery. But as they also noted, that is easier said than done. Their prior eDiscovery model, directed by outside counsel and conducted ad hoc on individual matters rather than focusing on organization-wide results, proved unsustainable at scale. This eDiscovery process caused three major inefficiencies, says Global Litigation and Regulation Enforcement Head Joe Salama. “It created the risk of costly errors; it was slower than we wished in a space where speed is critical; and it led to higher costs because we had to retrieve more data than we needed. Because we were not as quick as we would have liked, we had to cast a wider net at the outset.”

The Deutsche Bank Legal eDiscovery Team, part of the bank’s LRE team, took the reins in early 2017, focusing on reducing risk and cost. The partners created an eDiscovery Center of Excellence that would enforce tight process controls and standardization while leveraging

innovation and integration of new technologies. The effort is largely in response to an environment of huge financial sector dockets with large-scale requirements and rapidly multiplying data types such as chat, instant messages, and audio, as well as a variety of foreign jurisdictions, languages, and data privacy requirements.

The team partnered on the project with co-Champ QuisLex, with whom the bank has been working since 2008. Kelli Stenstrom, global head of legal eDiscovery, had taken on full-time responsibility for the effort and had assembled a team of four. **“We leveraged our longstanding relationship with QuisLex, which enabled our small eDiscovery team to take on the work,” Stenstrom explains. “With that specialized core team, we could look at eDiscovery programmatically and in jurisdictions outside the United States to ensure we were handling cases globally in a consistent manner.”**

After extensive data analysis and mapping, the team revised and standardized DB’s eDiscovery approach to include the following elements:

- Standard protocols addressing such substantive issues as privilege and data privacy, and procedural enhancements such as security and defensible sampling



QuisLex: Left to right, Kapilan Kannan; Sita Moola; Vivek R. Khanwalkar; Sirisha Gummaregula; Andrew Goodman; Nitesh Anand; Jenia Guha; Sujith Menon; Danielle A. Noonan

- Continuous real-time monitoring of more than 100 data points to assess compliance and identifying areas for improvement
- Defensible statistical sampling across all stages of review, including iterative second-level review by outside counsel, creating a feedback loop that drives consistent substantive positions within and across matters.

Creating a dramatically different approach to matter management at multiple outside law firms required skilled change management, aided by clear executive sponsorship from Salama and Rose Battaglia, legal chief operating officer. Integration of the eDiscovery team into the Litigation and Regulatory Enforcement Team at Deutsche Bank was a key element in delivering the desired change. “This was client-driven change,” Stenstrom says. “Only a centralizing force like LRE could render the process globally optimal and bring consistency to matters across an international enterprise like ours.”

Data analytics and technology expertise provided by QuisLex played a key role.

“Technology, if used effectively, is a great enabler for combining speed and consistency,” says Sirisha Gummaregula, chief operating officer for QuisLex. “We tested the available technology extensively.” The resulting solution:

- Uses analytical tools and technology-assisted review to find relevant documents
- Automates redactions and audio transcription to reduce manual effort and improve consistency
- Employs machine translation of foreign-language documents, enabling DB to use English-speaking subject matter experts to review the material
- Uses tech-enabled jurisdiction analysis to assess the least number of documents requiring review and redaction to comply with the data privacy laws of more than 30 jurisdictions.

Over the past year and a half, the cost of managed review during the 18-month period declined by 49 percent. Despite significant variation in the types of matters, more than 90 percent of managed review projects were on time and within budget.

“This has been a long journey. It probably took us longer because there were few examples to emulate,” Battaglia says. “We have been able to build things that no one else in the industry would take a chance on, which took incredible insight from the lawyers who work in this department and their commitment to developing a defensible process that would pass muster before any regulator, any court, and most importantly our own management board.”

FROM THE JUDGES

“This submission was very impressive in the way the winners used artificial intelligence and machine learning to compile a single database that brings consistency and accuracy and eliminates the need to ‘re-discover’ documents with each new case.”

“The complex made simple.”

HATCH AND LEXVOCO

USING DESIGN THINKING TO INNOVATE LEGAL PRACTICE



Left to right, Jemima Harris, Caroline McPherson, Kim Cavallaro, Frances Eardley

Hatch is a global engineering consulting firm with 9,000 professionals working in metals, energy, infrastructure, digital, and investments. The legal team has nine lawyers around the world reporting to an Ontario-based general counsel. In 2015-2016, Hatch initiated a global transformation project to meet dynamic market conditions and to deliver positive change for Hatch's clients. Leveraging a corporate mandate for positive change and driven by the corporate mantra of "innovating in all that we do," the four-person Australia-Asia legal team set out to respond to the changing needs of their internal clients while staying on top of the workload. That workload includes advising on a diverse range of matters including major project agreements, mergers and acquisitions, employment law, technology licenses, and corporate governance.

They were well positioned to tackle the challenge, says Kim Cavallaro, legal counsel and company secretary for AUA: **"We had the ability to gauge the business and were given a lot of autonomy. We didn't want to be a bottleneck, so we sought to empower our clients by giving them access to informa-**

tion and empowering them to self-service for routine legal issues."

The team embraced design thinking to guide their process. Design thinking is a replicable, structured framework to creatively solve problems tailored to the user. A legal department that describes itself variously as "complementary," "collaborative," "thoughtful," "happy," and "supportive," Hatch's AUA team was receptive and ready for design thinking. Realizing that they needed technical help, they brought in co-Champ Lexvoco to help build the information sharing platform known internally as the CAG & Legal Services SharePoint Site; the acronym "CAG" stands for Client Agreements Group, which reflects the underlying mission of the legal group to facilitate winning work with Hatch's clients. Lexvoco is a "NewLaw" firm that assists their in-house clients through secondments, legal operations, technology, and legal advice. The overall goal: to make contracts and legal resources more accessible.

"Law is so complex in some of the concepts we're trying to convey," Cavallaro says. The "Eureka!" moment came when the team realized that legal resources could be mapped to Hatch's engagement lifecycle. They are organized and stored on the SharePoint site according to the lifecycle stage they support. By thinking from users' perspective, legal information and resources became intuitively accessible. For example, confidentiality agree-



ment forms are located in the “Winning Work” phase, while report-writing guides are located in “Execution.”

Business leads can respond quickly to external clients on corporate information requests and facilitate timely contract negotiations. Contract templates were redesigned so matter-specific information is completed in an upfront schedule, while terms and conditions stand alone. A clear, consistent design that represents process and progress visually appeals to the engineering audience and helped to get their buy-in.

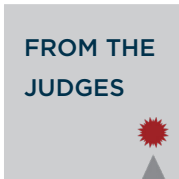
Communication and training were key change management techniques. For example, the legal team revamped its internal newsletter to use graphics and diagrams to explain legal concepts; content in the emails links directly to the platform. The team offered several targeted training sessions within the AUA region, supplemented with five-minute training videos also developed by the team.

The legal team consulted closely with Hatch’s internal IT professionals as well as the company’s project delivery group. “The approach we take in legal operations is to work very closely with the client’s IT group to leverage existing systems,” explains Jemima Harris, principal

at Lexvoco. SharePoint was chosen as the platform for the new site because it had just been rolled out companywide the year before.

The site has received more than 25,000 visits thus far, and the project has increased efficiency within the legal department. Turnaround times for such documents as insurance certificates and reviews of terms and conditions have dropped from as much as a week to same-day responses. Routine requests have dropped off by about two-thirds, and internal clients “now are coming to us with informed questions,” says Frances Eardley, legal counsel at Hatch. “We also have more time to devote to value-adding work.”

“Focusing on strategic questions has been good for our own job satisfaction as well,” Cavallaro says. **“The project has elevated the legal department’s standing within the company.”**



“Knowledge management is not easy. This team put together a visually pleasing self-service solution and drove adoption. The project is replicable; a similar user interface would be of interest to law departments of any size.”

MASSMUTUAL

APPLYING LEAN TO NATIONAL COORDINATING COUNSEL PARTNERSHIP



Eric Au, Drinker Biddle; Mass Mutual, left to right: William Denno, Kady von Schoeler, David Allen, Robin Fasoli, Mike Eng, Christine Juhaz

Stemming from a companywide Lean transformation that commenced in 2011, an opportunity surfaced for the MassMutual legal division to redefine its operations function with a keener focus on technology, administration, outside counsel management, budgeting, and forecasting. The team now comprises five members and is responsible for managing “the business side” of the law division.

Early on, the clearest opportunities were to bring more guardrails to the division. The team focused on improving the processes for onboarding, engaging, and managing outside counsel. The deliberate choice not to pursue a convergence project was an effort to help attorneys keep the working relationships they valued most and to position the new legal operations team as a helpful partner in taking care of details around engagement letters and negotiation, says Christine Juhasz, head of legal operations.

These steps paved the way for MassMutual's Value Challenge award-winning initiative, in which the team worked with MassMutual's data scientists to identify blocks of litigation appropriate for more sophisticated AFAs. Leveraging data analytics and Lean expertise, the team selected a national coordinating counsel for one of the company business line's litigation work.

The model, a hybrid AFA, combines a fixed fee with hourly components by activity, as well as a “safety valve,” a contractual clause that is used to calculate the difference between legal fees and fixed fees (if any), and how the net amount will be applied.

“We had done the data modeling and had a very good idea of what this work should cost to land on the most effective and efficient solution. The arrangement was designed to reduce our spend on a unit cost basis while increasing a selected law firm's revenue at the same time, truly a win-win result,” says William Denno, a finance and data management consultant.

After analyzing historical legal spend, the legal operations team invited five firms to submit proposals; they would select a single firm for a three-year partnership. One of the RFP requirements was that bidding firms had to explain how they would use project management or Lean techniques to manage the portfolio of work, as well as describe potential efficiencies and value-added services. **“We were seeking a process improvement partnership, rather than just telling outside counsel they had to change things,”** Juhasz says.

MassMutual found that partner in Drinker Biddle & Reath LLP, which serves as national counsel to several other life insurance companies. To kick off the initiative, counsel and client representatives spent a day creating a playbook



Drinker Biddle: left to right, Jason Gosselin, Nolan Tully, Kate Villanueva

that outlined the terms of the collaboration, including standard work, rules, responsibilities, expectations, and timelines. They set forth 10 parts to litigating the matters in a standard workflow that would save hours of work, improve communication, and enhance mutual understanding. Both sides feel that this upfront investment has paid off handsomely.

“To achieve efficiencies and consistency in representation, we needed to dedicate significant resources in the early months of the engagement. We are confident that this was a valuable investment of resources because MassMutual demonstrated a commitment to retain Drinker Biddle for a sustained period of time,” says Kate Villanueva, a partner at Drinker Biddle.

MassMutual analyzed legal spend after six, nine, and twelve months. “We found that actual results aligned to the RFP assumptions,” says Denno. “As we worked through the process during year one, we identified other types of related work that Drinker Biddle can support.” Drinker Biddle tracks its efforts via shadow billing and shares the results with MassMutual.

Those results netted a credit that will be applied to other related work. “That block of business has become fully supported by Drinker Biddle,” Denno says.

The first year of the engagement brought a reduction in legal spend of more than 12 percent per matter.

But the benefits were

more than financial: Considerable time is saved by not having to issue engagement letters or onboard new firms. These process improvements and others have helped to decrease matter duration by over 40 percent.

Consistency in litigation and handling is another major benefit. **“Collaborating with one firm allows us to better understand the other’s culture, communication style, challenges, and clients,” Denno says. “They understand our business, our philosophy, our matters, and our team.”**

Looking ahead, the efficiencies gained have positioned MassMutual to react favorably to a surge in litigation, if and when that should happen. The team expects to check and adjust the process while formally reviewing each matter to identify key learnings for continuous improvement. MassMutual is expanding this program, leveraging the knowledge and experience gained to improve how additional blocks of business are managed and litigated.



FROM THE JUDGES

“This project combines Lean principles, value-based fees, and data analytics to focus on decreasing unit costs in a comprehensive approach.”



MCAFEE

HOOT: USER-CENTRIC BESPOKE TECHNOLOGY THAT MANAGES LEGAL RISK



Left to right, Tiffany Lim, Katherine Neumon

A big part of in-house legal work involves making sure that the right person gets the right question. In times past, this connection was often handled via email. Unstructured reviews involving multiple stakeholders communicating by email could create backlogs and often engendered miscommunication, inconsistency, and frustration. It could feel more like busywork than the practice of law.

“We had an opportunity to make improvements to a process that affects much of the organization,” says Tiffany Lim, lead consumer products counsel at McAfee. “We have a wide product line that is sold both directly to consumers, but we also sell them to partners. Each product is slightly different and requires a separate review. Using a traditional method of taking requests through email just wasn’t feasible anymore.”

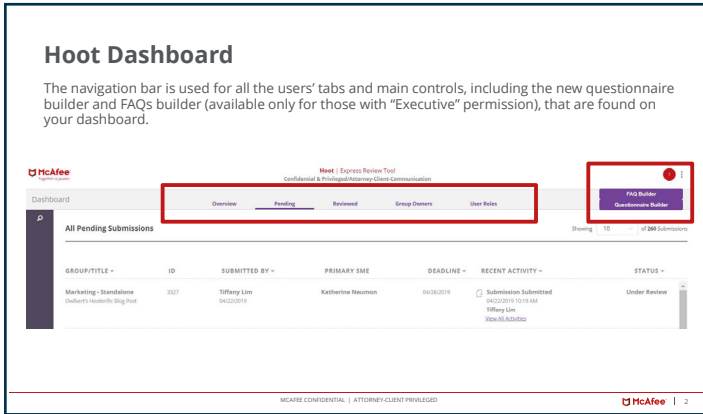
When McAfee was spun back out as a separate company in 2017 after its acquisition by Intel, the new legal department had a blank slate upon which to re-create itself and its processes. With the main objectives of assessing compliance for products and marketing materials and getting them out the door as quickly as possible, the process was ripe for improvement and reinvention. Ron Wills, McAfee’s former head of global business law group and worldwide legal operations at McAfee and currently

chief of staff to McAfee’s president and chief revenue officer, reached out to Sam Ensogna and his team at The Scylla Group. Together with Wills, Lim, and Katherine Neumon, lead marketing counsel at McAfee, The Scylla Group helped develop a technology solution that enabled McAfee’s in-house lawyers to provide accurate and actionable advice quickly.

They opted for custom development to meet key requirements:

- Automated routing and tailorable backend roles and responsibilities management. The legal workstream owner establishes assignment routing when they create the questionnaire submitters complete. The routing ensures that the correct reviewers are engaged when answers to specific questions indicate a specific reviewer’s expertise is necessary.
- Cross-collaboration between different business stakeholders and multiple legal advisors
- Weigh-in and approval from different legal specialists, depending on the issues raised by the particular review and custom-generated questionnaire
- Real-time visibility and metrics to legal leadership across all workstreams and system submissions.

The result was Hoot, a web-based platform that has evolved from a simple questionnaire



possibility of routing rote elements of reviews to low-cost legal providers for initial review.

Hoot brings all business stakeholders to the table in one platform, which is designed to align with a “RACI” (Responsible/Accountable/ Consulted/Informed) roles-and-responsibilities model. Every stakeholder has visibility into the questions asked and the information provided to date. Users can assign specific questions to specific

collaborators via an “Actions Required” pane within the tool; the assigned collaborator is then prompted to provide an explanation documenting how issues are resolved.

Cycle times are down dramatically, say Neumon and Lim: **What used to take weeks (and sometimes months) now takes days. Reviews for product updates now average five to seven days, while reviews for new products take less than six weeks.** The increased efficiency has freed up attorney time by minimizing administrative work and expanding capacity: the team increased the number of reviews completed annually by three times.

Costs have declined as well — by more than 60 percent. These savings are generated mostly by the minimization of outside counsel fees. In 2017, McAfee spent 100 percent of the budget allocated for outside counsel support for product and marketing reviews. In 2018, that outside counsel spend dropped to 18 percent within the allocated budget. Best of all, “Hoot has been positive for the view of the legal department within the company. It’s a lot easier for everyone to come together,” Neumon says.

to a dynamic, automated system that guides users down a decision tree and provides pre-programmed answers. But getting that initial questionnaire was crucial to the project’s future evolution and success, Neumon says. “It was a lengthy process to nail down a set of questions that would draw out the relevant information,” she explains. “A key challenge was breaking the questions down into conditional logic via probing questions.”

Keeping user experience at the core, the pair worked with their consultants to design a clean, intuitive interface that captures the entire engagement lifecycle and allows lawyers to provide standard guidance in particular circumstances. It also captures guidance on unique issues that can be used by the attorneys in future reviews and mines exchanges for common questions so they don’t ask, or answer, the same questions repeatedly.

Where the Hoot system is not self-service, it triages, permitting lawyers to devote time to unique, impactful issues. It also facilitates an intermediate level of attention for questions that can be playbooked but not quite programmed. It also allows for staffing flexibility, including the

FROM THE JUDGES

“This solution is not just about self-service but about allowing everyone to function more effectively. It is innovative and replicable.”



RABOBANK AND THOMPSON COBURN

VALUE-BASED FEES
AND LEAN SIX
SIGMA: A SUCCESS
STORY IN STRATEGIC
PARTNERING



Left to right, Cheryl Kelly, Partner, Thompson Coburn; Charles Nitsch, Associate, Thompson Coburn; Chris Brumbaugh, Associate, Thompson Coburn; Mark Kaltenrieder, Partner, Thompson Coburn; Herman Schroeder, Senior Counsel, Rabo AgriFinance; Philip Kirkpatrick, Regional General Counsel-North America, Rabobank

When Rabo AgriFinance LLC (RAF) began implementing Lean Six Sigma and other continuous improvement approaches several years ago, the initiatives eventually reached the legal department in St. Louis, MO. RAF is one of four significant US operating entities of Rabobank, one of the world's largest food and agricultural lenders. The 25-person department handles corporate governance, litigation, lending, regulatory advisory, derivatives, and other areas. Regional General Counsel Philip Kirkpatrick, who has been with the bank since 2013, leads the department. As the department began to measure turnaround times in the bank's loan documentation and legal review process for large agricultural loans, Kirkpatrick discovered inconsistent delivery, inefficiencies, and turnaround times that were too long. Those delays could be significant for RAF, one of the five largest agricultural lenders in the United States, with a loan portfolio of over US\$11 billion.

"We really lost confidence in how we were structured as a legal team, as it relates to providing lending-related services," Kirkpatrick says.

Corporate leadership determined the process could be more efficiently handled by outside attorneys and, after issuing an RFP, turned to their longtime partners at Thompson Coburn, with whom they'd been working for nearly a decade. The move wasn't without angst, Kirkpatrick says. "We struggled with the perception of the decision. Were we outsourcing the legal function in totality? Would we lose control with outsourcing a key risk activity? It was definitely stressful, to say the least."

RAF selected Thompson Coburn due to the firm's commitment to the work and to a structured project plan and rollout. For example, in its proposal, TC had laid out a step-by-step timeline for the transition that listed specific deliverables for each party. The firm hired three experienced commercial finance attorneys to work at RAF full-time. Together, the teams created a value scorecard that is regularly reviewed and adjusted so RAF can measure the value of the relationship and Thompson Coburn can ensure it is delivering against expectations.

This is the first time Thompson Coburn has used a value scorecard in a client engagement, says Mark Kaltenrieder, one of the partners who manages the relationship. "It ensures that we are aligned on how we would define success in terms of turnaround time and quality, how to ensure

efficient review, how we would process conflicts, and how we would incorporate feedback from business partners. It is a living document.”

The team leveraged big data to develop an innovative model to reasonably predict how long legal review of a loan should take, based on specific variables. They adjusted the variables to create predictability, and cross-compared with actual time spent on loan review to validate the model. **Data analytics allowed RAF to target stress points in the process and identify areas for improvement. “Measuring through exceptions” is how Kirkpatrick put it.**

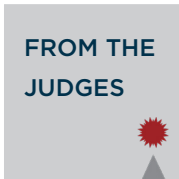
The statistics also help RAF project staffing needs, allowing the company to allocate its resources wisely and avoid over-staffing. Because the attorneys working on RAF matters are Thompson Coburn employees, staffing risk in terms of ebb and flow has been assumed by the firm. The loan documentation and legal review work is done under a monthly fixed-fee arrangement, which has been expanded to include other legal services as new opportunities for work arise.

Redesigning the process to bring the outside attorneys inside helped RAF think through how they process documentation and how complex the process was, Kirkpatrick says. Initiating the engagement with Thompson Coburn provided a chance to eliminate handoffs, overlap, and other inefficiencies. Requests are no longer sitting in queues, and the Thompson Coburn lawyers have all the necessary documents for review which helps reduce inefficiencies. **As a result, turnaround time that used to average five days now takes just one and a half, a reduction of 70 percent.** The system is enabled to send warning notifications of any loans that

take more than 15 hours, and the legal department charges costs back to the business if the work exceeds the budgeted number of hours.

Thompson Coburn regularly handles 35 to 60 loans each month on relationships in excess of US\$12.5 million. The fixed fee for the engagement amounts to a reduction of more than 10 percent in the average monthly staffing cost for keeping the process inside. Further, internal customers now have a consistent point of contact in the legal department; the Thompson Coburn lawyers flag recurring issues and assist with training RAF line staff so that the files are more complete.

Previous to the changeover, anxiety was high internally, Kirkpatrick says. He and members of his team traveled to the nine locations across the United States, making presentations and demonstrating how the new process would benefit their internal and external clients by creating efficiencies, predictability, and a more standard work product.



“Impressive analytics and a great case study in partnering with and managing outside counsel. A robust example of targeted outsourcing to solve problems.”

SONAE

REDESIGNING AND TECH-ENABLING LABOR & EMPLOYMENT PROCESSES



Left to right, Sofia Queiroga, João Moreira Dias, Marta Azevedo, Rui Coimbra Gonçalves, Duarte Abrunhosa e Sousa

Sonae is a multinational corporation with a portfolio of brands, including retail, health, and beauty among others. The largest private employer in Portugal, Sonae has 40,000 employees in its 1,250 stores. The five-person employment law department is part of human resources rather than the in-house legal department, and specializes in legal counseling and litigation, ensuring labor and data protection compliance, and support for company strategy. The department implemented Agile principles in 2016 in response to an economic crisis that began in 2009 and drove the need to define procedures, cut costs, and improve efficiency.

“Because we work with people, we had to adapt to the new reality where efficiency was a key issue. We tried to challenge ourselves to work with efficiency metrics that were established for Lean projects without endangering the quality of our work. After the initial doubt about implementing Lean in a legal department, we realized that we can always improve,” says Duarte Sousa, senior legal counsel.

One of the employment law department’s largest portfolios of work is managing and tracking disciplinary actions of employees in collaboration with 970 interlocutors. The

internal proceedings are very demanding and bureaucratic, with many pressing deadlines imposed by Portuguese employment law. The far-flung placement of employees and managers, including on islands off the Portuguese coast, made coordinating and carrying out these proceedings an enormous challenge. The average duration of disciplinary proceedings was about 90 days, and there was a pressing need for shorter lead times.

The team conducted a process mapping exercise that was informative: “We learned that we had too many contractors. We learned that we needed to have a process that guaranteed accuracy of the information, and that would provide stakeholders with quick and easy access to that information,” says Marta Azevedo, director of the employment law department. “As lawyers, we could not control all the documents and all the deadlines,” Sousa adds.

Through monthly meetings to discuss the challenges and new ways to collaborate with the HR managers, the team discussed how to reduce procedure costs and bring greater value to the team and its partners.

The team began to conceptualize and develop a process management software solution that would meet multiple goals:

- Comply with Europe’s new General Data Protection Regulation
- Integrate with enterprise resource planning



Duration of the disciplinary proceedings was a key performance indicator for the department. In the first 18 months after rollout of the new platform, duration dropped to 63 days, a reduction of nearly 30 percent. The team now has the ability to handle more cases each year, increasing from 456 in 2017 to 508 in 2018. Further, 92 percent of decisions resulting from the legal actions have been favorable to the company.

- Promote the digitization of tasks
- Reduce Sonae’s ecological footprint
- Enable the electronic registration and tracking of all labor and social security proceedings
- Facilitate direct interaction with the 970 interlocutors

Working with Sonae’s internal IT department and an external IT consultant, the employment law group created a tool that performs all these functions and integrates a knowledge management platform organized by topic that archives all documents relevant to the proceedings, including drafts, meeting minutes, and memos that can be adapted and shared. It generates indicators that allow users to monitor the evolution of cases through dashboards, and issues automatic notifications of key deadlines and milestones.

It was a collegial and productive collaboration, Azevedo says. **“The brainstorming between those of us with a legal mindset and the people from IT, who often had very different visions for things, yielded fantastic results in this platform.”**

The employment law team also embraced technology to train HR operations managers on the use of the new platform. Previously reliant on up to seven monthly in-person training sessions that were time-consuming and expensive, they created a new training format called Quicktalk. Using Skype and podcasts, the team conducts monthly hour-long training sessions that ensure all attendees receive the same information at the same time. This new method has allowed the team to reduce training costs by 95 percent due to the avoidance of travel and accommodation costs, which approached €26,000 in 2016, and helps them to keep the managers up to date on the frequent changes in labor and employment law. As Sousa observes, **“We can train the entire country in one hour, and people are more satisfied.”**

FROM THE JUDGES

“We were impressed by Sonae’s ability to increase quality while saving money, especially with the 95 percent reduction in training costs. This program is easily replicable for other organizations that have similar needs.”



TELSTRA

SHIFTING GEARS: USING AGILE PRACTICES TO RE- ALIGN BUSINESS & LEGAL TEAMS



Left to right, Damien Coleman, Justine Rowe, Bill Gallagher

In early 2018, the leadership of the legal department at Telstra, a telecommunications company headquartered in Melbourne, Australia, began discussing whether its operating model, an ingrained legacy of more than 20 years, was well suited for taking the department into the future. These conversations occurred in congruence with a realignment of strategy for the company overall, driven by a structural shift in the Australian telecom industry and a significant downsizing that brought urgency and imperative. With plans for companywide headcount to decline by a net 8,000 from more than 32,000 employees, legal leadership wondered, “How do we lift ourselves up?” says Damien Coleman, deputy group general counsel.

The traditional, business unit-aligned model had served the department well but did not allow its members to support a rapidly evolving business and would be ineffective in a new paradigm of a lower cost base and fewer resources.

“We knew we needed a legal department model that would provide flexibility and an enterprise-wide perspective,” Coleman continues. “We needed a better way to drive the performance

of our function and scale adoption of new ways of legal practice and new technology.”

Coleman and his colleagues engaged in a re-imagining of the legal operating model to support the company’s new strategy to diversify beyond broadband and leaner organizational design. The new model has allowed the legal department to focus on strategically aligned priorities, realize significant productivity outcomes, and generate practice management data for the first time.

The team started by deploying attorneys to legal practice areas, which enables the members of the legal department to focus on work of the greatest value to Telstra and overall strategic goals, regardless of business unit.

Practice areas include finance, M&A, and corporate; disputes, risk and compliance; regulatory; customer contracting; buy, build, and partner contracting; employment law; and legal operations. “Importantly, we have kept a number of business partner roles, whose responsibility is to maintain very close working relationships with the key decision makers in the business and to understand their priorities deeply,” Coleman says. While some business units did struggle with the change, legal team members quietly persisted in demonstrating that the new operating model would better serve the business.



Left to right, Andrew De Celis, Denise Doyle, Craig Emery



Once the practice area structure was organized, focus moved to how the legal team would operate. Leveraging a variation on a legal innovation process that brought Telstra recognition as a Value Champion in 2017, the team conducted workshops with diverse representation that yielded three key streams of work: Demand and Workforce Management, Operational Enablers, and Capability. Within Demand and Workforce Management, the goal was a single, consistent way of receiving instructions from clients. To realize that goal, the team designed an online tool, Engage Legal, a smart web form that guides users through a set of interview-style questions to determine which practice area should handle the request.

Uptake of this “digital front door” has been extremely strong, according to Coleman. More than 3,000 requests were submitted in the first six months. **“It has had a profound impact on the way the legal team operates. It has also given us a consolidated, granular view of demand, giving us data of a caliber we had not previously had,”** he says.

Practice areas have adopted Agile practices to track work allocation, ceremonies such as “stand-ups” to prioritize and manage work, scrums to brainstorm problems, and retrospectives to identify improvement opportunities. The team is building a structured approach that measures every set of instructions against criteria to ensure its alignment to strategy and measure its level of risk. The team designed and implemented a training program to support the shift to the new model and participated in training on Agile fundamentals and techniques.

Although the results included a 15 percent reduction in operating costs, the company also lost one-quarter of the in-house legal team. “It was pretty challenging for everyone,” Coleman says. He hopes the story of his department’s success in the face of adversity will be instructive for others:

“The innovation is in the way we’ve gone about reimagining how to run the process and the benefits that brings in terms of how we better serve the business, how we operate more flexibly, how we provide better career and development opportunities for our people in a practice model that gives them more exposure to issues across the business, and the way in which we have stood up an entirely new technology interface that gives us data and much better demand management than we’ve ever had before. We sought to embrace the opportunities and focus our efforts on the things that matter the most. We think there is some inspiration to be gained and there is much to be proud of.”

FROM THE JUDGES

“Telstra’s reorganization of its in-house staffing and the way services are delivered in the face of a companywide reorganization demonstrated a commitment to efficiency by utilizing Agile techniques and prioritization of the company’s strategic goals.”



TOYOTA MOTORS NORTH AMERICA AND THE COUNSEL MANAGEMENT GROUP

USING RELIABLE DATA
TO IMPLEMENT VALUE-
BASED FEES



Left to right, Sandra Phillips Rogers, Ellen L. Farrell

Just over five years ago, TL1, the internal legal department of Toyota Motor North America (TMNA), began its march toward value with outside counsel convergence. Through RFPs and interviews, the department created its TL1 Partnering Program with about 60 firms. Next came e-billing, as the department strove to streamline, improve efficiency, and manage costs. Once equipped with the resulting, valuable pool of data generated by several years of e-billing, TL1 partnered with the Counsel Management Group (CMG) to take its pursuit of value to the next level.

“We have always been committed to delivering the highest quality legal services to our internal clients,” says Ellen Farrell, vice president and deputy general counsel. “We wanted to do a better job of managing legal fees while still meeting our quality goals.”

Using Toyota’s formal continuous improvement process PDCA (Plan, Do, Check, Act), the team devised the necessary steps to enhance its new partnering program with the application of value-based fees.

Recognizing that a common obstacle in implementing value-based fees is a lack of reliable data on the cost of legal work, TL1 partnered with CMG to analyze historical invoice data

and build cost models showing how much different phases and components of work should cost, from the client’s perspective. Examples include cost per expert, per fact deposition, and per dispositive motion across various types of matters.

“The theme was already on the legal team’s mind: to leverage data to supplement their in-house experience and judgement,” says Frederick Paulmann, principal of the Counsel Management Group. “The key is to make this exercise powerful for outside counsel too. It must be viable for them, and they can use the shared information and comparative data.”

The goal was to go beyond hours times rates to forecast the expected “all-in” costs for key items of work such as depositions, expert workups, and significant motions. This information, along with TL1’s assessment of the value of these units of work within the matter, help inform the fee structure.

“Toyota are experts at process management and engineering,” Paulmann says. “This approach was a great match with the way the business runs.”

Vague scope assumptions are another obstacle to value-based fees, with clients and firms often unsure about how changes in matters should affect fee structures. The team began to track scope assumptions more effectively to move away from using hours as the prime measure and improved their ability to analyze



key scope assumptions at the beginning of the budget year. This information helps articulate baseline assumptions and quantify the impact of material changes in scope proactively rather than reactively.

“This step enables us to have realistic conversations with firms, which are used to budget on a matter basis, about what can happen. Scope is especially challenging to define in alternative fee arrangements, but these expectations and goals help us focus on what needs to happen,” Farrell says.

By tracking the progress of scope assumptions on a quarterly basis, TL1 can better identify scope changes that may have a material impact on the fee structure. At year end, the fee structure can be adjusted where there was a material change in scope. This was intentional from the beginning, says Farrell, who notes, “It’s challenging to deal with variation among matters and between years, but frequent revisiting is not a fixed fee; it’s an estimate.”

Traditional budget estimates can sometimes be very law firm-centric, Paulmann adds, but notes, “It’s not a win to come in way under budget.” The team’s goal is to have scope and cost materialize to within 10 percent of initial assumptions, resulting in no change in fee structure. This has brought not only improved budget predictability but average savings of 17 percent per year.

For other in-house departments contemplating similar initiatives, Farrell advises a commitment to data and rigor as prerequisites, as well as a culture that features an appetite for change. She acknowledges that the project was an investment of time and effort but empha-

sizes that the gains in years two and three have returned that investment multiple times over.

“It’s a great illustration of the definition of value. It’s not just about savings on legal fees,” Paulmann says. “TL1 can track and demonstrate return on investment to the TMNA Finance department. **This project captures the changes going on in the legal industry and represents the next generation of thought on legal value.**”

“The progress we’ve made on value-based fees demonstrates how organizations can leverage data to help improve results for their clients and strengthen relationships with their partner firms. It’s a win-win situation, and I’m so thankful to our legal department and partners for their effort and commitment to challenge what’s possible,” concludes Sandra Phillips Rogers, general counsel, chief legal officer, and chief diversity officer of TMNA.

FROM THE JUDGES



“This project shows a strong commitment to getting to real costs. It’s a massive undertaking to arrive at a unit run rate, which may be challenging for smaller companies and legal departments. A long period of cost trending data informed this very impressive effort.”





QuisLex congratulates its client, Deutsche Bank, on being named a 2019 ACC Value Champion. We are proud of our role in designing and implementing their standardized and tech-enabled document review processes, at a fraction of the previous cost.



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