

Why the Agile Approach Is So Important to Law Firms

This article was adapted from the fifth edition of the Legal Project Management Quick Reference Guide, an electronic library of LPM tools and templates. For more information, see www.legalbizdev.com or call 617-217-2578.

As legal project management (LPM) has become increasingly important in meeting client demands for greater value, law firm decisionmakers often must choose between conflicting approaches to this emerging discipline, which is recommended by experts who often disagree with each other.

The traditional approach to project management was developed to improve performance on complex and intricate projects, from building skyscrapers to putting a man on the moon. The Project Management Institute (PMI) is the largest organization in the field and, according to its Web page, PMI provides “resources and research [that] deliver value for more than 2.9 million professionals working in nearly every country in the world.”

For decades, PMI has included industry-specific sub-groups specializing in how to manage projects in areas such as aerospace, construction, energy, entertainment, financial services, health care, information technology, pharmaceuticals, retail, and transportation. However, PMI’s legal project management group was not started until 2010.

The professions that have the longest history with PMI are those where projects have clear end goals and schedules, such as building a bridge that connects Point A with Point B. The traditional approach to project management (also called the “waterfall” approach) is based on sequential series of steps, one after the other. Progress is seen as

flowing steadily from the top to the bottom (as in a waterfall).

Essential Difference

But in complex legal situations, while you are “building a bridge,” an adversary may be trying to tear it down, or prevent you from building anything at all. Being successful in this type of environment requires very different skills and mindsets from the traditional waterfall approach. Legal project managers must be especially efficient and effective in dealing with change and uncertainty.

That is where “Agile” comes in. Software programmers began to adopt Agile project management when, as the old saying goes, “Perfect is the enemy of the good”—and many technology rollouts were delayed as a result. This alternative approach to project management was first described in the *Agile Manifesto*, written by a group of influential software developers in 2001. Under Agile, technology firms:

- Develop programs as quickly as possible
- Try them out on users
- Make changes based on feedback
- Then try them out again

Rather than starting out by defining the perfect requirements document, they recommended developing release after release as quickly as possible, testing them on users, and modifying them to truly meet user needs. Anyone who owns a computer or a smartphone has seen Agile in action. Regular updates are common, delivering incremental improvements that benefit the customer while giving the company feedback quickly. Today, Google, Facebook, Twitter, and thousands of other technology companies rely on Agile.

Defining Agile

But exactly how should Agile project management be defined? As Alan Shalloway has noted, “There is a lot of confusion about the answer... a movement was created around the term *agile*, but the movement is not governed by a single body and agile methods continue to evolve” (Verzuh, Eric. “Stellar Performer: The Agile Approach to Software Development,” *The Fast Forward MBA in Project Management*, Fourth Edition (Wiley, 2011)).

According to Shalloway, in its essence Agile focuses on four key questions:

- “How do we deliver value quickly to our customers?”
- How do we discover as early as possible what is needed?
- How do we accurately gauge the progress we’re making in our project?
- How can we accelerate the learning of the development team?”

These questions hit the nail on the head for many areas of the law, so it is not surprising that a variety of LPM experts are now working on the best ways to apply Agile.

Seyfarth Shaw was one of the first law firms to apply project management on a large scale, and also one of the first to embrace Agile. Karen Dalton and John Duggan, senior project managers at Seyfarth Shaw, define it as follows: “...[W]e can’t possibly know everything at the beginning of a project... [so] trying to build an end-to-end plan is often futile... [Instead], Agile promotes the identification of near-term deliverables and getting started just as soon as you know enough to begin” (“Lean and agile: How LPM can transform client services,” *The Lawyer’s Guide to LPM*, Ark Group, 2017, p. 88).

To date, Agile has had its greatest impact on LPM as a general mindset rather than as a specific collection of well-defined techniques.

By contrast, in the traditional waterfall model, a project should start with a

well-defined plan. Only after that is complete and approved do you begin working your way to the end, one sequential step at a time. Traditional models typically break project management into phases or steps such as:

- Analysis
- Design
- Implementation
- Testing
- Evaluation

This particular list, called the Systems Development Life Cycle, is one of the most popular, but there are many variations.

The table below summarizes the most important differences between the Agile and waterfall approaches:

	<i>Traditional project management (“waterfall”)</i>	<i>Agile project management</i>
Upfront planning	High	Low
Documentation	High	Low
Expectation that requirements may change as the project proceeds	Low	High
Speed of response to changes in requirements	Low	High
Reassessment of tasks as project proceeds	Low	High
Client involvement in evaluating progress	Low	High
Control by the project manager	High	Low
Team member autonomy	Low	High

As you might guess from the Duggan quote above, when Seyfarth first began to apply the traditional approach, they found that in many cases it was not “well received or effective” with lawyers.

In their article “Agile: A Non-traditional Approach to Legal Project Management,” Kim Craig, then SeyfarthLean’s global director of legal process improvement, and Jenny Lee, a senior project manager with Seyfarth, explained that “traditional project management focuses on robust, comprehensive, mandatory project documentation with lengthy project charters, detailed project plans, complex status reports and rigorous, formal change control logs...[But] the world of legal service delivery is fast-paced and unpredictable. In legal matters, we cannot possibly know everything that will be involved with litigation at the outset. Developing an overall strategy is generally common practice, but detailed, cradle-to-grave planning is impossible.”

Pioneer Firm

Once Seyfarth began applying Agile, it led to many changes in procedures, according to Heather Eskra, a senior project manager at the firm. Seyfarth began to improvise more. The typical two- to three-page static project plan, which in many cases had been ignored by lawyers, was replaced by dynamic bulleted must-read emails sent out as needed.

Clients were involved earlier and more often in meetings that in pre-Agile days would have been purely internal. This investment of time actually sped up the process by uncovering misunderstandings and changes in direction much sooner than in the past.

Seyfarth even began collaborating with opposing counsel in an effort to speed up deals. For example, in some cases they let the opposing firm use some of its software, shared task lists, housing both sides’ documents on a single platform. It sped up the process in part because the other firm did not

want to be seen as falling behind. The process also affected the outcome, in the sense that it could help both sides reach “yes” more easily.

Seyfarth lawyers and staff frequently hold joint “lessons learned” debriefing meetings after a matter closes, sometimes after every phase in large matters, adjusting approaches and tactics based on what worked and what didn’t work in the prior phase. Some lawyers who once complained about the debriefings are now pushing to have them earlier, Eskra said.

These days, Seyfarth transactions that are complex, fast-moving, and/or likely to change, take the Agile approach. The program has proven to be a significant step forward in the firm’s pioneering, decade-long focus on improving client service.

The distinction between waterfall and Agile will be equally important to other law firms as more and more embrace project management.

The Agile approach runs counter to the committee-decision process at many law firms, which often leads firms to put a five-year strategic plan in place before taking a single step. At many firms, this type of overthinking has doomed the commitment to LPM to die of old age before the committee made its first recommendation.

It has also led to problems when firms begin to hire LPM staff. We have seen cases in which firms have hired LPM Directors based on their project management experience in construction, government contracting, or other areas where traditional techniques are used and agile techniques are not. We have many stories of LPM Directors who could not or would not adapt to a legal environment, and ended up only working with the very small group of partners interested in project charters, Gantt charts, and tools like Microsoft Project software.

So if anyone tells you that LPM is defined by five steps such as analysis, design,

implementation, testing and evaluation, you should be aware that they are describing the traditional waterfall approach, which is basically different from the Agile approach that we recommend. Beware. As the old cliché goes, you won't get a second chance to make a first impression. The problems involved with taking the traditional waterfall approach have set back the cause of LPM at many firms.

We certainly don't mean to imply that traditional LPM techniques have no value to lawyers. When it comes to specific tactics, both waterfall and Agile have substantial contributions to make to LPM. But as a

general philosophy and mindset, Agile and waterfall are radically different, and many elements of the waterfall approach simply do not apply to lawyers. ■

—Jim Hassett and Ed Burke

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