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Legal profession learns how Six Sigma can help

By Katheryn Hayes Tucker, Staff Reporter

In-house lawyers from The Home Depot and ING say their companies use Six Sigma principles to improve efficiency and reduce costs, and they believe other corporate legal departments and law firms can benefit from those concepts.

"All our departments are getting into it," said John H. Goselin II, a corporate counsel for ING Americas, which uses Six Sigma to standardize the quality of handling customer complaints and in other ways. "We haven't required it from outside counsel, but I think for law firms it would be a good marketing strategy."

Six Sigma is a methodical, statistical framework for decreasing costly errors and improving efficiency for business. Originally developed for manufacturing, it gradually caught on in other sectors of business though it's not received much attention in the legal world. The concept caught on at Motorola in the 1980s, then gained momentum when General Electric CEO Jack Welch became a fan. As its popularity builds in business, general counsels are coming under increasing pressure to use it for high-volume, time-consuming and expensive legal work such as document review and electronic discovery. Corporate attorneys familiar with Six Sigma say it's important for their law firm counterparts to at least be aware of it. The next step may be that GCs require their law firms to use the same concepts.

"I don't get the sense that a lot of lawyers are big fans of this process. It's almost cultish," said Betsy P. Collins of Burr & Forman, a litigator with 25 years experience who has done extensive research on Six Sigma. She said she doubts whether many law firms have retained Six Sigma experts, and notices a "deer in the headlights" look when the subject comes up. But, she said, as GCs come under pressure to use the efficiency concepts in their own legal departments, they are likely to want their law firms to follow suit.

Knowing that Home Depot employs Six Sigma, law firms have mentioned the principles in presentations, but not convincingly, according to Tom Best, senior counsel for litigation at Home Depot. "It was more, 'I'll tell you what you want to hear,'" Best said.

Goselin, Collins and Best spoke in a panel discussion of "Six Sigma and other methods to achieve new efficiencies in corporate matters and litigation case management" for about 120 members of the Association of Corporate Counsel Georgia chapter at Maggiano's Cumberland Mall on Tuesday. Collins and Goselin are co-authors of a white paper presented to the American Bar Association litigation section at an annual conference this year titled, "Six Sigma, the Discovery Process and the Corporate Legal Department." Other co-authors are: Goselin, Caroline B. Keller of Gulfstream Aerospace Corp. in Savannah; and Joe Mann and Andrea B. Tecce of Navigant Consulting in Washington.

"Even before the current economic crisis, American corporations have been under extraordinary pressure to find ways to 'get it done' cheaper, faster and easier without sacrificing any quality along the way. The legal process, especially electronic discovery, is extremely expensive and has become a prime target for scrutiny," the white paper states. "It behooves both in-house counsel, and the external counsel on whom they rely, to understand what Six Sigma is, how it can reduce legal costs, how it can improve e-discovery, and how to avoid certain pitfalls of Six Sigma that can undermine the company's legal defense and unnecessarily increase the costs of the discovery process."

The paper defines Six Sigma as "a logical, methodical style of project management which can be applied to review and ultimately improve the process by which tasks are accomplished." It says Six Sigma methodology is being applied to an increasingly "wide variety of business processes to improve efficiency and reduce costly errors." The technical meaning of Six Sigma is that a process functions 99.997 percent defect free.

"At its core, Six Sigma focuses on process improvement," the paper states. "The overall philosophy of Six Sigma is to facilitate a continuous improvement culture. Activities and processes are constantly being challenged and pushed to a higher level of performance."

The discipline has something in common with martial arts. Experts have titles such as "master black belt, black belt and green belt." They market themselves as consultants and get hired into organizations to drive cost reductions through process changes achieved by Six Sigma projects. Sponsoring executives are sometimes called "champions."

These “master black belts” are not likely to be lawyers, but they are likely to start brainstorming sessions with the legal department about high cost areas that need to be cut. Electronic document review seems to be at the top of the list. E-discovery vendors and practitioners are increasingly using Six Sigma to improve the process, making it “more defensible and less costly,” the paper said.

“Six Sigma is a great principle to apply,” said Phillip Cassady of Paragon Legal Technology Support, who also spoke on the ACC panel. One way the framework can help in e-discovery is to cut down on the overcollection of documents, he said. He said he finds that sometimes 80 percent of the documents collected are useless, and that Six Sigma can cut down on wasted effort.

“We can use those tools to help you,” Cassady said. “It's going to save you time and money, and it's going to help you find that smoking gun that you are looking for.”

The in-house lawyers on the panel and Collins agreed that the best time to start using a Six Sigma framework would not be during work on a major case. They also said it's important to make sure the Six Sigma standards support the company's vision, and to guard against over analysis and stifling creativity.

“It's like anything else. You have to manage it,” said Goselin of ING. “For us, it's taken on a life of its own. You fix one process and move on to another. I do think there's a lot of benefit to actively trying to fix a process.”