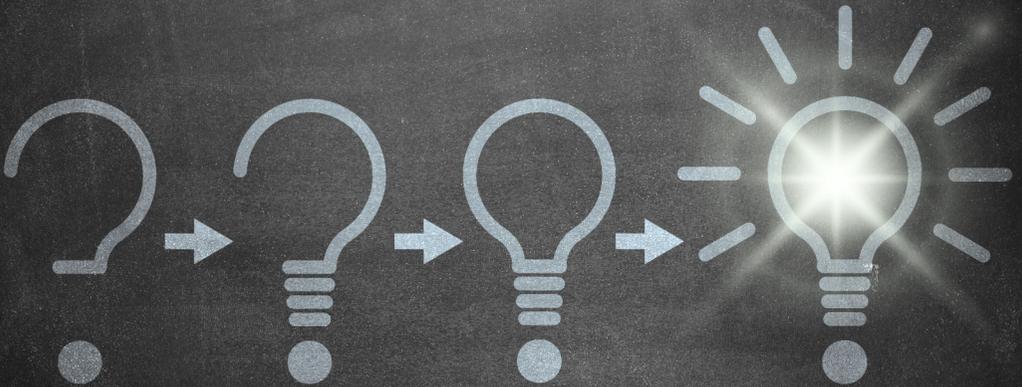


LUCY ENDEL BASSLI

THE
SIMPLE GUIDE
TO LEGAL
Innovation



BASICS EVERY LAWYER
SHOULD KNOW

Cover design by Tahiti Spears/ABA Design.

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Printed in the United States of America.

24 23 22 21 20 5 4 3 2 1

Library of Congress Cataloging-in-Publication Data

Names: Bassli, Lucy Endel, author. | American Bar Association. Tort Trial and Insurance Practice Section, sponsoring body.

Title: The simple guide to legal innovation / Lucy Bassli.

Description: First edition. | Chicago : American Bar Association, 2020. |

Includes index. | Summary: "Educational needs of practicing lawyers are explored with a practical guide provided. Details the legal ecosystem and how its complex, varied and often overlapping parts can and should be handled by practicing attorneys, alternative legal service providers and "non-legal" professionals"—Provided by publisher.

Identifiers: LCCN 2019048125 (print) | LCCN 2019048126 (ebook) |

ISBN 9781641055871 (hardcover) | ISBN 9781641055888 (epub)

Subjects: LCSH: Practice of law—United States.

Classification: LCC KF300 .B377 2020 (print) | LCC KF300 (ebook) |

DDC 340.068—dc23

LC record available at <https://lccn.loc.gov/2019048125>

LC ebook record available at <https://lccn.loc.gov/2019048126>

Discounts are available for books ordered in bulk. Special consideration is given to state bars, CLE programs, and other bar-related organizations. Inquire at Book Publishing, ABA Publishing, American Bar Association, 321 N. Clark Street, Chicago, Illinois 60654-7598.

www.ShopABA.org

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CHAPTER 1

My Innovation Journey

How to Read this Book:

If you are methodical and like big-picture storytelling, read the book in the order it is written.

If you want to get to the main point and be ready for a cocktail conversation about legal innovation, then, after reading Part I for general background, skip to Part III for the meat of the book.

With countless articles and blogs on legal innovation, it is nearly impossible for attorneys to keep up. We're already stretched thin trying to negotiate deals, go to court, manage the business, build new client relationships, and stay abreast of the changes in substantive areas of law. And just as we think we're finally getting a grip on it all, the legal industry decides to wake up from its decades-long slumber, opening its blurry eyes to a rapidly changing economy that's being driven by a technology-powered workforce.

Should lawyers be expected to read every sensational article about robots taking over their jobs? Should lawyers become experts on blockchain? Or perhaps become certified in legal project management, or train to code software? Absolutely not! Such goals may be highly unrealistic, but every lawyer should be aware of these concepts. Lawyers need an appreciation of what is happening in the legal industry, who the key players are, the role that technology plays, and how these factors are changing the nature of legal services delivery.

Clients are demanding new and different services such as asking for project management assistance, alternative pricing structures, and lower cost resources. They want more value from their firms, and they want their firms to come up with ideas. Firms are responding by hiring a variety

of professionals in other disciplines, including data science, project management, knowledge management, and solution architecture, as examples. Professionals in these fields are largely frustrated, however, because the practicing lawyers still need convincing about the benefits of their services. If, however, practicing attorneys understood the value and could articulate the benefits that other professionals bring, they would need no convincing and clients would be the beneficiaries.

Many lawyers are simply unaware of the revolution that is happening, adding further tension to the precious billable hour, with new players offering enticing solutions and technology playing a larger role each day. Unfortunately, many practicing lawyers continue to focus on their billable hours and rely on the personal nature of their client relationships, ignoring data, clients' needs (not stated wants, but actual needs), and the inevitable future of the law practice—a practice that has been largely unchanged for decades.

In this book, I explore the educational needs of practicing lawyers and provide a practical guide for lawyers who want to differentiate themselves. This type of education falls somewhere into a gap between traditional continuing legal education (CLE) topics, and the training and development that most law firms provide to their attorneys to develop professional (usually, soft) skills.

I explore in some detail the legal ecosystem and how its complex, varied, and often overlapping parts can and should be handled by practicing attorneys, alternative legal service providers (ALSPs), and “non-legal” professionals.

Lawyers are often unaware of the developing resources available, even if their own firm has them. They are not sure how to leverage these resources, when to engage them, for what kinds of work, or how to sell them to their clients.

This book has three main sections: introduction; followed by foundational chapters on the legal education landscape, the rise of legal operations (or legal ops), the legal ecosystem, women and innovation; and lastly practical chapters on the top concepts that lawyers need to know. It is targeted toward commercial attorneys at midsize to large firms, because it is written from my personal perspective and experiences.

The good news: lawyers can continue to learn well into their years of practice! With some updated vocabulary and a few real examples (the examples in this book come from my corporate experience, not consumer or legal aid services sectors) lawyers can learn to wow their clients, enticing them to try something new.

This book will help them on that journey.

A JOURNEY THAT REDEFINED A CAREER

So who am I and why should you care about my thoughts on legal innovation? I was a regular lawyer (just like you, reader). I'm not a coder or a Silicon Valley startup founder. I came to innovation through being annoyed with the inefficiencies and volume-based challenges I encountered in my work life—and by recognizing that there were better ways of doing things and that I could make an impact. I have experience in both small and large firms as well as in small and large corporations. I have background as a legal tech solutions provider, as part of a high-growth startup corporate legal team, and also as a consultant who was active in several parts of the legal ecosystem. This section details my journey and some key lessons I learned early on that helped me become an innovative lawyer.

My Innovation Journey

There is no better way to inspire others to change than to provide real examples of how someone else did it. I did not know that I was going to be an “innovative” lawyer when I graduated from the University of Houston Law Center. Actually, I had no idea what I would be . . . anything but a litigator or practicing something that has its own set of laws (tax or bankruptcy). As it turned out, I went into Bankruptcy Law and was in court regularly. I learned three valuable lessons at my first real job as a lawyer that have influenced and inspired my desire to innovate:

1. **CONFIDENCE (or COURAGE).** When a first-year associate is trusted to independently participate in a three-party negotiation mediated by a bankruptcy judge, there's no choice but to do your best. Honestly, I was not intended to take that lead, the circumstances at the small firm left me in that position, as all those senior to me had other commitments and, worse, a medical emergency. So, there I was, doing my best to not let my fear shine through. I had to demonstrate confidence and tap into all of my courage, regardless of my lack of experience. Being in this negotiation was unlike anything I had experienced in my short career to date. I took it as an opportunity to learn. To try something new and risk failure, you have to be confident in your ability to learn and adapt. To innovate, you have to risk failure and trust the process of learning from mistakes.
2. **LOGIC.** The owner of the firm had forty-plus years of experience and was well-known among the community of bankruptcy

attorneys around the country. He never acted as if he was constrained by conventional boundaries and norms of what “should” be done. He always led with logic and pragmatism. He didn’t follow patterns and expectations, and always asked me what I thought we should do. Learning to trust your logic and go with what makes sense has been a key foundation. Often, innovation comes from the need to *do something better*; where the current way just doesn’t make sense.

3. SUPPORT. Having the support of the owner and the other two lawyers in this tiny firm, I always felt empowered to stretch and encouraged to push my comfort zone. Having the right professional support is critical. Though everyone talks about mentors and sponsors, you also need those who simply encourage and support your attempts, while teaching you along the way.

Armed with these three key lessons, I was ready to conquer just about anything my developing career would throw at me. Before I knew it, a real opportunity landed in my lap. An opportunity that was ripe for innovation. So what really set me on an “innovation journey”? Simple, it was the work. The work I was doing lent itself to innovation simply because I could not manage the work the way it had always been done. There was too much work, too little time, and unreliable resources. Let’s dive into a few examples of what I see as very simple versions of “innovation” or logic, as I like to think of it. Sometimes moving from old ways of doing things is a result of applying logic to doing things a better way.

Using Data

After the small bankruptcy boutique, I was fortunate to be recruited by a mentor and friend to join him at a great regional firm where I began to work on commercial contracts. As I was handling growing volumes of contracts for the client, I quickly realized that I needed to track huge chunks of work. Keeping track of legal work is not natural to the law firm lawyer, nor were the systems advanced enough at the time to enable good tracking of anything besides the billable hour. As the number of paralegals that worked on my transactions grew and the total number of transactions increased, it became necessary to understand how the workload was balancing. Who was working on which contracts? More importantly, how long did it take to review these contracts?

I began by creating a very simple table in Microsoft (MS) Word (before I learned to love Excel). Every lawyer reading this book likely knows how to use MS Word, but I bet its table functionality is not something that comes naturally to all lawyers. I used MS Word to create a tracking system for my own purposes, but more importantly, *I shared the data with the client*. It was important that they see the amount of work that we were handling and to understand the timeliness. It was one of my earliest lessons in realizing how something so simple could be helpful to the client. They didn't ask me for it, but it just seemed obvious to me that they would appreciate it. When I started receiving positive feedback from the client, I began to notice that what seemed so logical and obvious was actually novel for them to get from their law firms.

Asking a Basic Question: Why?

When toddlers ask "why" about everything, it can certainly become annoying. Apparently when a new boss does it, it also can be annoying, but there is a key difference. Toddlers do it out of curiosity. At work, we ask "why" because we are trying to understand the rationale for a particular approach and challenge if there may be a better way.

When I first went in-house to Microsoft, I adopted a centralized team of paralegals who were tasked with handling a certain type of work. I started asking them why they did certain things: such as starting with a particular template, or searching in a certain repository, or using sample language, and so on. In my efforts to explore how they accomplished their work, I noticed that every question was met with a very defensive response. They didn't seem to trust that I was not looking to criticize their processes, but rather hoping that together we could find better ways.

It quickly became clear that everyone was doing things their own way, and nothing was documented. How was a centralized team, servicing an entire department, supposed to deliver a reliable, consistent service without documented workflows or shared information? Once I learned that there was no solid answer for why things were done the way they were, I set out to gather some basic information and share it with the team. This was the beginning of our journey to standardize processes. I didn't know that process engineering was a "thing." It just seemed logical to write down the process and gather common documents in a shared place.

Apply Learnings from Other Experts

As I engaged with more project managers, change management experts, Six Sigma certified professionals, business analysts, and other professionals, I learned so much that I could use in my day-to-day work. For example, a project manager never starts a project without a charter. This document is much more than a piece of paper. It is a grounding mechanism that sets guardrails for any project and summarizes the basic information that anyone would need to get a general overview of the project. Preparing such a document is excellent training for a wordy lawyer to filter only the most important pieces of information to relay to others. Lawyers are accustomed to prose and lengthy detailed documents. Learning how to create a project charter is a transferable skill that I have used dozens of times for extensive projects that needed some organization of thought and ideas. Sometimes I used it to relay information to others, and sometimes I used it to orient myself and ground myself in a particular direction.

So how does a project charter help a commercial transaction attorney, without just adding administrative overhead? Each complex contract negotiation is actually a project. Each negotiation has a start and end. It has multiple stakeholders and exchanges of documentation. Most importantly for the business, it should have a clearly defined timeline. All of these characteristics are what makes an otherwise disjointed effort into a project. The project manager is skilled at keeping everyone on track, documents in order, and deadlines met. We assume that lawyers naturally do this as part of their contract negotiation experience, and in fact, they do have to manage the process—but are they doing it effectively? With the proper training or even basic access to certain project management aids and tools (not technical tools, but worksheets, templates, guides, and so on), any lawyer will become more effective.

A project charter template can be refined to apply to a complex contract negotiation. Imagine if every contract negotiation that was handed off to a law firm was handled by the law firm initially providing the client with a “negotiation charter.” This one-page document would identify all of the stakeholders on both sides of the negotiation, a timeline, key principles of the negotiation, list of applicable documents (with links to a cloud-based collaboration site—dreamy, I know!), and even a potential budget for how much a negotiation like that would cost. This sort of visibility would be so refreshing to an in-house lawyer who is used to having very little transparency in the negotiation process until the law firm lawyer reaches out with a question or an update, usually based on a completely uncreditable schedule.

Aligning the Right Resources

As I evolved my commercial transaction practice after leaving the firm and going in-house, the volume grew. I began to have trouble keeping up with the people on my team doing the work. The full-time employees, a group of paralegals I was managing, were having a tough time adjusting to my need for data and process-driven decisions. They were balancing the growing workload and demands from our peers and clients for updates and status reports. Everyone wanted to know how many contracts we did and how long they took. While we worked on our processes, I began to expand my team virtually and added external help from law firms and temp agencies. I ended up with a mixed bag of external resources, each engaged in a slightly different way from different service providers. Then the natural problems started with absences, unreliable schedules, and unmeasurable quality.

It was obvious that I did not have the right resource model. At the time, I didn't think of it as a "resource model"—these were words I learned from program managers and operations professionals along the way. It was just not working well for me. I had to rethink how I was staffing this work. That is when the idea of outsourcing came up. I had heard about it in legal and was very familiar with it in the context of finance, human resources, and information technology. After all, my day job was negotiating with some of the world's best outsourcing companies. Surely, we could apply similar outsourcing principles to the contract review process that I was managing.

The outsourcing journey is its own story.¹ I raise it in the context of innovation because it was a very logical step in resolving my staffing challenges. What makes it innovative is that I did not turn to a law firm or a temp staffing agency. Nor did I ask for more full-time employees. I applied what I saw happening in other parts of the business to my own legal practice. I also took a leap of faith with a service that was accustomed to much lower complexity legal work (mostly in discovery and back-office work, like word processing or administrative support) and stretched it to do more complex work and replace the paralegals that I had strung together from numerous external resources. That leap of faith and some creativity is what made it novel at the time.

A Sprinkling of Technology

Prior to the fancy systems of today, we began with a fairly simple MS Access database, so we could track the volume of contracts. It was certainly a step up from my MS Word table at the firm, but even this was no rocket ship of a system. It was clunky, but it served a purpose. The reason I am proud of

this system is that it was a first step in the right direction of data collection and automation, and it provided us with some great lessons learned when we set out to develop a more sophisticated system.

The real benefits of technology came when we automated the intake of the requests from our business clients. We moved from requests via email, instant messaging, and, heaven forbid, pop-ins into the office, to a fairly sleek system with a drop-down menu of help that they needed. Whether they needed a contract reviewed or had a general contracting question, they could use an online system and then track where it was in the process. At the same time, I was able to create reports on the data we collected. This allowed us to provide transparency to the business and have data to use with our external resources about the volumes we had.

We implemented a lot of other technology, and it all related to the workflow that was the most impactful to the business clients, and to our operations. The key message here is that technology is a *part* of the innovation journey—it is not the destination.

SHARING MY LEARNINGS

My journey over the course of thirteen-plus years at Microsoft was only the beginning. I learned so much and was eager to share my experiences with others. I was so inspired by so many other lawyers calling me for advice that I decided to start my own consultancy.

What makes this twist in my career relevant in a story of innovation is that it took exactly the same formula for innovation that I had learned in the start of my career, seventeen years earlier, that gave me the courage to leave the safety and comfort of a predictable job in one of the world's best companies: courage + logic + support. I had confidence from all the experience I had gained when transforming processes that had been unchanged for decades. I used logic to inform my decisions about what untraditional career options I should pursue that would leverage my experience. And I had lots of support—from family and friends who knew my passion for transforming regular work into work that I loved. Support came from industry peers who encouraged me to push myself and be creative in my next steps. It came from colleagues who didn't want me to leave, but knew what was best for me. Most surprising was how many people approached me to ask how I had the courage to make this change. Frankly, I saw it as crazy at the time. Then I realized they may be right—it did take courage to venture into the unknown.

So, after leaving Microsoft, I worked with law firms, taught an online professional education class at a law school, consulted for corporate legal teams, advised a legal tech startup, wrote extensively across various legal press mediums, and spoke at industry events. I was fortunate enough to touch almost every part of the legal ecosystem. I learned and was able to influence other professionals to try new things among very old practices.

I only wish the influence could happen faster. I witnessed industry players dedicated to innovation asking me to print, sign, and fax back a document. I saw too many lawyers still saving documents to their hard drives. I still find too many printed contracts with hand-written editing. There is still so much work to do to influence our profession . . .

Another Career Change to Drive Innovation

How often does an opportunity come up to create a function from scratch, a function that is completely focused on innovation and creativity? Not often! But it can happen. For instance, I jumped at the offer to create a new legal ops team at a hyper-growth startup called Snowflake Inc. The company was experiencing an unheard-of boom, and the legal team could not scale, or even keep up with demands. When the chief legal officer (CLO) asked if I'd ever plan to come back in-house, I said yes, for the right role. She then asked me about my dream job. When I described it, she said that's what I can do there. Hard to say no to that.

This proves that there are forward-thinking attorneys who see the need for processes, systems, automation, programs, and, most importantly, data, to run their departments effectively. When a CLO says that legal is no exception to the requirement for data-driven decisions (it helps when the corporation's business is a data business), you know you are in a department that will embrace innovation, not challenge it.

Before we explore what is happening in our legal industry, I want to address those lawyers who are early in their careers (or the managers of those new lawyers).

PLEA TO INNOVATE

There are opportunities to innovate in every corner of the law firm practice. Although it is likely that the law firm compensation model does not encourage efficiencies or innovation generally, there are small inroads that can be made without too much disruption. Associates at law firms can

take the initiative to try new ways of handling work. These changes can start in the processes internally, and not be visible to the client, which may be better received by partners resistant of change. No law firm will openly (or at least I hope not) reject innovative ideas, but the ideas have to make sense within the law firm culture and infrastructure. Associates can begin to create some basic reporting for clients that shows clients trends or themes among bodies of work. Time spent on this may qualify toward business development credits. Associates can create ways to use their experience with consumer applications to apply to the systems already in place at the firms. The common experience of sharing updates via social media could be used to keep clients informed real time during critical events that impact the client (negotiation, trial, other meetings). Though these are just ideas, the purpose is to open up the minds of associates who may be so focused on reaching their billable targets that they can't imagine spending time to experiment. Experimentation is the only way to innovate. It must be encouraged and rewarded.

I am often asked what advice I'd give to attorneys just starting out. Here are my suggestions:

1. Explore what innovation projects already exist at the firm and find ways to become a part of them or offer help.
2. Identify partners who are interested in innovation and engage with them on client work that may lend itself to creativity.
3. Speak frankly with a senior partner who has offered to get you involved in more work or with whom you already do a significant amount of work and express your interest in innovation. Ideally, present some ideas that you have been considering.

Find the **courage** and have the **confidence** to identify something that seems so **logical** and seek out the **support** to do it!