

Ep #27: The Advantages of a First-In, First-Out Policy



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Ep #27: The Advantages of a First-In, First-Out Policy

In today's episode, I'm going to question a common piece of conventional wisdom around how law firms prioritize their work. And that's the idea that we should organize everything around deadlines or due dates. And while deadline driven prioritization does have a place, I can tell you from experience that there's a better technique that law firms should be adopting as their default prioritization method, it's called first in, first out or FIFO. And it's the method used by just about every grocery store, warehouse, manufacturing business, anything that deals with inventory.

And I'm going to tell you why you should be using it for knowledge work as well. Ready to become a more agile attorney? Let's go.

Welcome to *The Agile Attorney* podcast powered by Agile Attorney Consulting. I'm John Grant and I've spent the last decade helping lawyers and legal teams harness the tools of modern entrepreneurship to build practices that are profitable, scalable, and sustainable for themselves and their communities. Each episode I offer principles, practices, and other ideas to help legal professionals of all kinds be more agile in your legal practice.

Hello everyone and welcome back. In today's episode, I'm going to build upon some of the concepts I initially addressed in episode 14, where we talked about prioritizing work and using the cost of delay framework and classes of service to help you make better prioritization decisions. But the best way to make those on the fly prioritization decisions is to have a default prioritization policy as your backdrop.

All other things being equal or absent a good reason to deviate from your default policy then your default policy should apply. As far as what that default policy should be, there's a clear winner in my mind, and it's not how most law practices that I encounter tend to be working. For some reason, and I actually think I know what that reason is, but I'll hold off on explaining it for a minute.

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So, for some reason the default prioritization policy for most law practices is to look at the due date or the deadline for all of your various pieces of work. And then elevate the priority of any work where the deadline is approaching soonest or fastest. There's a better approach. And I know it's going to feel counterintuitive for a lot of you, but it can be a game changer for reducing overwhelm and improving the predictability of your practice. And that's to adopt first in, first out or FIFO as your default way for prioritizing work.

As I mentioned in episode 14, our natural instinct is to prioritize new shiny tasks over older ones, which is a last in, first out approach. And frankly that is a recipe for disaster even though it seems to be sort of embedded in human nature, which of course is all the more reason why you need to formally adopt a different policy, a first in, first out policy as your default.

That FIFO approach is borderline magical the way it helps protect us from our own lesser instincts and help us manage our workloads more effectively. Even better, it can help reduce stress and overwhelm and even help you gain a strategic advantage in litigation or negotiation if that's the type of practice you have. So, let's dive into why first in, first out beats a deadline driven approach and certainly beats a last in, first out approach. And then I'll give you some suggestions for how you can implement FIFO in your own law practice.

I'm going to start by giving a quick recap of the key concepts from episode 14. We talked then about how different types of tasks have different costs of delay. Basically, the longer we wait to do something, the more it costs us in terms of time, money, missed opportunities, or other consequences. But the shape of the graph describing those costs over time is very different for different types of work.

We also introduced the idea of classes of service, which are categories we can use to prioritize our work based on these costs of delay. And the four main classes are, number one, standard work. This is your regular day-to-day tasks that don't have strict deadlines, but the cost of delay grows

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steadily over time. When the task is new it almost never feels urgent, but you let it go long enough and it can become an urgent feeling.

Number two is fixed date work. This is tasks with specific inflexible deadlines where something significant happens if you miss that deadline. Remember, a deadline is different from a due date or an expected by date because a deadline has a clear, often, external consequence if you miss it.

Number three is, expedite work and these are the urgent, often unexpected tasks that require your immediate attention. This is when something has caught fire and that fire is going to grow. Meaning the cost of delay is accelerating quickly.

And number four is the intangible work. This is your maintenance tasks or technical debt. Where the cost of delay doesn't look bad at first and doesn't even seem to grow very much over time. But if you let it go long enough and something breaks, then it basically turns into an expedite, drop everything and fight the fire type of task. These are the things that can really sneak up on us if we neglect them for too long.

Now, understanding these classes of service and the cost of delay associated with each one is really useful for effective prioritization. And if you need a refresher, I definitely recommend going back and listening to episode 14. And I'll give you a link to that at the end of the show.

I also want to talk for another minute about the problem with deadline driven prioritization. And I include deadline and due date driven prioritization as basically the same thing in terms of a policy standpoint. They're not quite the same thing in terms of classes of service, but lawyers often treat them the same. In fact, a lot of people tend to be so wired for deadline driven work that they wind up inventing due dates to try to trick their brains into getting things done on time.

And the problem with this is when we prioritize solely based on deadlines or due dates, we tend to fall into a trap where we're constantly putting out

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fires and neglecting the important but less urgent work. We wind up being at the mercy of those external pressures and the false deadlines instead of proactively managing our workload and this reactive approach can lead to a number of problems.

Number one, if we haven't left ourselves enough time ahead of a deadline, it can create rushed subpar work as we scramble to meet either a real deadline or the arbitrary one. Or if it's an arbitrary deadline, we sometimes will just wind up blowing it off because we know it was fake to begin with.

Number two, it can create a situation where you or members of your team have to engage in heroics in order to meet a deadline, or you have to work extra hard and make that diving catch to save the day. But as I've talked about before, diving catches are not a reliable way to manage your work, and they're not a predictable way to manage your work. And more importantly, they're not sustainable over time. Diving catches may look cool, but most of the time they hurt.

Number three, it can cause you to miss opportunities for delivering value early and either exceeding client expectations or even more importantly, getting that valuable feedback that you can use to improve your worked product before the final deadline approaches.

Number four, being more deadline driven can cause you and your team to kind of neglect the standard or the intangible work item types until their own cost of delay gets so high that those tasks now become urgent. And again, this is the tyranny of the urgent and it's hard to get out of that loop.

And number five, just in general, it tends to increase the levels of stress and therefore, the likelihood of burnout from yourself and the people in your practice as you kind of lurch from one crisis to the next.

So again, overall deadline driven or due date driven prioritization is the thing that really gets us feeling like we're so busy fighting fires that we can never do fire prevention. It's the thing that keeps us feeling stuck on that

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hamster wheel, we're always running, but we're never getting ahead. And first in, first out as your default policy offers a way off that wheel.

So how does first in, first out work? And really, it's exactly what it sounds like. It means handling tasks in the order that they come in without trying to schedule things around deadlines or due dates, and without letting too much work jump the queue. When a new matter or task lands on your desk, you add it to the bottom of your to-do list or the bottom of your inbox.

And for those of you using Kanban boards, which I hope you are. They should go into a queue column and they should go to the bottom of that queue. And then as you work your way through that list or inbox or queue in a steady, predictable way, focusing on the oldest task first, then all of the work will predictably rise to the top. And it makes it more likely that you're going to get things done in a reliable and systematic way.

Now, this doesn't mean ignoring deadlines entirely. You may still need to have certain tasks jump the queue or move up in priority if it looks like they aren't going to make it to the top of your list ahead of the deadline all by themselves. But that's making a deadline driven exception to your default first in, first out policy, which is different from, and frankly, more effective than using the deadlines of the due dates as your default prioritization approach. So, here's why having FIFO as your default policy can be so effective.

Number one, it ensures that older tasks don't get stuck on our list forever. By consistently chipping away at our backlog in the order that they come in and making sure that tasks are rising up to the top in a consistent way, we prevent standard work and intangible work from turning into expedite work because it's been languishing on our list for so long.

Number two, it helps reduce context switching. It reduces multitasking and therefore it improves the overall efficiency of you and your team. Instead of constantly jumping between new fires to meet deadlines or having lots of balls in the air at once that we have to manage and track. We can be more

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intentional about doing the work in the order it comes in and even about grouping similar tasks or grouping multiple tasks from the same matter in order to really get into the zone around that matter.

Once you've loaded that matter or that project's information into your brain, it's often more efficient to knock off a few things at once. And that too, that might be a slight exception from a true first in, first out model. But when you're not chasing deadlines and making those diving catches, you'll find that you have more flexibility to make choices about how you group your work that can be more efficient, more effective in the long run.

Number three, over time it makes our workload more predictable and more manageable. If we're not at the mercy of every new demand that comes in, when we have a system for triaging and prioritizing the new work then we wind up being more stable and more predictable in our systems. And again, I'm not saying that FIFO should be your strict policy or your only prioritization method, but it should be your default policy against which all of your possible exceptions get weighed.

And if you do all that, then the fourth benefit is, it really will shorten your overall turnaround times, especially when we're working within our available capacity. We're being careful about that honest reckoning with capacity. So, when we're not waiting until a deadline is approaching in order to get going on a piece of work or starting those tasks, we wind up having more flexibility to deliver early and exceed expectations or again, to establish those feedback loops in order to get the information you need to make that work better, to improve it.

So let me give you a few specific examples of when I really think you'll want to look at a first in, first out policy, even though that might not be your natural tendency or sort of your common practice today. And the first one is responding to client emails or phone calls. And this is a place where so many lawyers, so many law firms I see have a tendency to take that last in, first out approach.

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There's this assumption that being responsive to a client inquiry automatically becomes the highest priority thing for a lawyer to do. But as I've written about several times, that responsiveness can be the death of your overall productivity. Now, I see where it might be useful to send the client a message received email or some other way to acknowledge that you've gotten their request and maybe even letting them know when you expect to work on it. But that's using sort of a managed waiting technique, which is very different from dropping everything to answer the question itself.

And I know, I'm going to do a quick tangent, I know there are certain practice areas and certain situations where being immediately responsive to clients or potential clients can be really important. I'm not saying you should abandon responsiveness if you have one of those situations. But again, I think you should carve them out as a specific exception to your overall first in first out default and try to make that exception as narrow as you can.

Another way to use first in, first out is when you're researching legal questions and drafting documents. This can be one of those situations where the optimism bias, and this is a human cognitive bias, it's been pretty well established by scientists and behavioral economists. And it can really bite you if you're not careful. We tend to see work in an idealized way, and we're not good at anticipating the possible problems that might come up when we're doing that work.

But by adopting a first in, first out policy, along with again, engaging with that honest reckoning with capacity, managing your workload. We're more likely to start more of our work sooner, which means we're better positioned to deal with problems or issues when they arise. Now, keep in mind this isn't the same thing as starting lots of things at once so that you can get that information. We really do want to work on that monotasking or basically a lack of multitasking as much as possible.

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We want to start something and work it to done and get it completely off of our plate so that we're not having to carry extra information and manage the administrative overhead of having multiple balls in the air. Here's the weird thing is, even for deadline driven work, if you're managing your capacity properly, then a first in, first out approach will mean that most of the work that you do will get delivered ahead of the deadline, just as a matter of course.

And it's interesting because if you find that you're constantly having to let deadline driven work jump the queue because its deadline is approaching more quickly than you are going to get to that work naturally. Then that's actually a really good feedback loop for you that your practice is probably running over capacity. And you maybe need to hit pause on your intake or otherwise try to reduce the total amount of WIP in your system because a well-balanced system is going to deliver most of your work on time as a rule, as a default, with relatively few exceptions.

And as I mentioned at the top of the show, if your deadline driven work involves litigation or maybe negotiation strategy, there's another great advantage to taking that first in, first out approach that can help you get your work done ahead of deadline. And that's that it can give you a competitive advantage.

This is something Dave Maxfield mentioned back in episode eight, the logic goes like this. Because deadline driven prioritization is the default for so many law practices, it's almost built in as a cultural expectation. And that means if one side is going to file a motion or a brief and they know that the other side has 30 days to reply, and then they might get another 30 days after that to give a sur-reply. They're going to just assume that they don't have to worry about that sur-reply for 60 days. And that's generally a pretty safe assumption. Probably a lot of you or litigators you know are doing that.

And because they plan to have 60 days, they're often scheduling in other work, usually with earlier deadlines for them to complete inside of that 90

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day window. But if you deliver your piece of work in just 20 days. Now the other side has got a problem because they still have the same 30 days to draft their filing, but you've cut 10 days out of their overall plan, days that they were probably expecting to use some other way.

And so now you've created a clash of deadlines that the other side is going to have to scramble to meet. And that means there's a good chance that one of three things is going to happen. They could be forced to scramble to reallocate resources, which means that they're probably going to have to rely on a diving catch of some sort to meet their deadline.

It can lead to rushed work, which often leads to missed opportunities on their end. Their response probably won't be quite as robust as it might have been if they'd had more time. It will just generally put them on the back foot, disrupting their usual workflow and increasing the stress of their practice.

Now, I'm not generally in favor of increasing stress in the practice of law. We've got enough of that already. But I also get that finding an advantage in litigation is the way the game is played. And so as long as it's within the rules, it's totally fair game.

Alright, so how do you adopt first in, first out in your practice? Here's a few tips. First off, I'm going to come back to the usefulness of setting up a Kanban board to visualize your work. And especially one with a queue or a waiting column that you can use as a buffer or of sort of an inbox for collecting new tasks, new requests. In a lot of my preferred software tools, you can actually set the system up to default to a first in, first out method for sorting new work. But then you can manually override that order if you have exceptions to your policy.

But even if you're using a tool that doesn't support this, I still recommend setting up a queue ahead of your primary working columns so that you have a place where it's easy to do your periodic prioritization. And as a quick reminder, you can find my recommended Kanban software tools at agileattorney.com/start.

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Number two, start using those classes of service definitions I talked about in episode 14. If you go to that episode's page on my website, you'll find some graphics and other materials to help you figure out which of your work items fit within each class. And I'll give you another shortcut. I've set up a redirect on my website so that every podcast episode is findable by its number. In this case, just type in agileattorney.com/14 and you'll go straight to the episode 14 page.

Number three, set aside some dedicated time, and I usually think once or twice a week is plenty, to apply your prioritization policies. You'll start with that default assumption that you're going to be working on a first in, first out basis, but obviously you'll want to go through all of your tasks and apply any exceptions you come up with around deadlines or other types of work that get to jump the queue. Just do it in a consistent way and do it in a predictable way so that you're hitting that prioritization on a regular basis and you're not doing it on the fly all the time.

And that means for the rest of your working time, don't reprioritize your work unless something truly and shockingly urgent comes up. Your default reaction to new work should be to put it at the bottom of the queue and then deal with it when it comes up. When you're actually working, I want you to focus on pulling work from the top of your list, from the top of that column or the inbox. And working on that item until it's done, or at least until its next natural resting state, you need to send it to a client for feedback or to a team member for a quality review.

And then and only then do you pull the next item off the top. I want you to resist the urge to start working on new things until the thing that you're working on is done. And certainly, I don't want you to work on new things just because they've come into your attention. They go into the queue. And that way you avoid having to track too many balls in the air at the same time and you avoid the cognitive costs of all of that context switching.

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And obviously and this maybe should have been number one, you want to formally adopt first in, first out as your firm's default prioritization policy. And you'll want to work with your team to formalize and draft that policy and identify the necessary exceptions. And remember, implementing any policy, it's an iterative process. What's important is getting your team on board to try that new thing, respond to how it's working, and adapt the system over time as you get validated learning from the process.

Alright, so overall, a first in, first out policy is a really powerful alternative to a deadline driven prioritization policy. And it can help us manage our workload more effectively, it can reduce stress and ultimately deliver better results for our team and for our clients.

By defaulting your assumption to this idea that you're going to handle tasks in the order that they arrive, you're going to focus on making sure that oldest work is getting worked on first and making sure it gets out the door. We can help prevent backlogs. We can improve efficiency and ultimately create a more predictable, sustainable practice.

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