

Ep #28: 3 Signs Your Law Practice Is Over Capacity



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If you are running your law practice at or over its comfortable carrying capacity, meaning that the people and resources on your team have a high utilization rate and are often struggling to get everything done, it can be a recipe for disaster. One or two little things added to an already maxed out team can cause everything in your practice to grind to a halt.

In today's episode, I'm going to talk about why being over capacity is a problem. I'm going to give you three warning signs that you might be working at or over your ideal capacity. And I'll give you a few techniques for getting things back to a more comfortable working space. 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.

Hey, everyone, welcome back to the podcast. Today I'm doing sort of a quick episode on an important topic, which is how to tell if your law practice is running over its effective capacity. If you recall from last week's episode, I strongly encourage that firms adopt a first in, first out or FIFO approach to prioritizing the work inside of their practice.

But in that episode I cautioned, and I recognize that transitioning to a FIFO approach from a due date and deadline driven approach can be challenging at first. And it's even harder when your practice is running over its comfortable carrying capacity, meaning that you don't have sufficient slack in your workflows to effectively manage the totality of your work.

So how can you tell if you're over capacity? Well, the best way is to use data that you've collected using a high quality Kanban system, but setting that system up and collecting actionable data takes some time and I

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recognize that a lot of you probably aren't using Kanban yet. So, there are some simpler indicators that you can use to try to get a better sense of when you have too much in-flight work in your workflows.

I'm going to share three key signs to watch out for, but first let me do a quick review of some core concepts around capacity that I've covered in some past episodes. And if you've been listening to the podcast for a while, you know I talk about capacity all the time. And the key to finding better balance in your law practice and reducing that feeling of overwhelm is to begin with that honest reckoning with capacity that I talk about all the time. And this is both your personal capacity and also the practice's overall capacity, your team's capacity if you're in a larger firm.

And I won't dive deep on this again, but for a really good explanation of this concept, you'll definitely want to go back and check out episode two of this podcast. So why is the honest reckoning with capacity so important? Because once you define your finite capacity and you reckon with the fact that it is in fact finite. It forces you now to make choices about how you prioritize the work that you're going to apply that capacity tool, at least to what I call the brutal assessment of your priorities.

And it's brutal because the act of prioritizing one thing is inherently the act of deprioritizing everything else, and we don't like doing that, but it's the key to getting more and better work done. And of course, the goal is to prioritize cases and work that truly fit your practice, what you want to be doing, what you do best. It's also about making sure that you are reserving a sufficient amount of your capacity for all of the types of work in your practice, not just the client delivery work, but all of the behind the scenes, on the business work that keeps your practice running smoothly.

Now, it's not just about understanding what your capacity is, but it's about managing the total amount of work that you use to fill up your capacity. And one of the anti-patterns that I see all the time is practices using as much of their capacity as possible on that client work, leaving very little room for

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other critical tasks. And that often means that the important but not urgent feeling work gets neglected, little things like updating your systems, doing your continuing education credits, improving processes, workflows, templates, things like that.

And it's important that we intentionally reserve parts of our capacity to do that work. Which is to say that sometimes we need to deprioritize some of our client work, even the paid client work, in order to make sure that all of the on the business functions are getting taken care of. We also want to make sure that we've got slack in our system for expedited or emergency work. And this ties back to Little's law, which I've discussed before in episode five and again in episode eight so you can check those out too.

But the key takeaway is that your ability to deliver work quickly is inversely proportional to the utilization rate of the people and other resources within your practice. In other words, the more capacity you're using, the longer it's going to take you to deliver any one piece of work. Now, if you're not that busy and your utilization rate grows a little bit then the extra delay that comes from that usually isn't a big problem.

If you go from 50% utilization to 60/65% utilization, the amount of time it takes you to deliver an additional piece of work is definitely going to lengthen, but it seems like it's lengthening in a linear, predictable way. But it's a little bit sneaky because Little's law is a logarithmic relationship, not a linear one. And once you get over about 75% utilization, then delivery delays start to grow noticeably longer.

And as you approach 90% utilization, they spike dramatically, meaning your average delivery time can be over 10 times as long as it would be if you were only moderately busy. We've all been on that highway where there's a decent number of cars on it, but somehow it seems to go from flowing relatively smoothly to gridlock almost out of nowhere. And that's because that highway was probably operating pretty close to that tipping point of 75/80% capacity.

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And what that means is the addition of just a few more cars will be enough to bring the whole system to a halt and that's what happens in your law practice when you're not leaving sufficient slack. When you're always running at that high capacity or somewhere close to maximum capacity, then any little bit of extra or unexpected work that comes in can just cause everything else to stop and get stalled in your system. So how can you tell if your practice is running over capacity, especially if you don't have the formal measurement tools of a Kanban system to give you the data to let you know? Here's three things that you can look out for.

Number one, if you're struggling to fit in the intangible work, this is when you're constantly unable to make time for things like CLEs or updating forms, systems, templates, software, etc., that's a red flag. And those are the tasks that don't feel urgent necessarily on a day-to-day basis but they are critical for the long term health of your practice.

And it's that intangible one that when something goes wrong, it spikes and becomes an expedite. So, you really want to make sure that you're staying on top of and getting a little bit ahead of that stuff so it doesn't wind up dragging you into some sort of firefight emergency.

I talk with my clients about what I call 5% time. That's the idea that you should be setting aside about 5% of your total capacity for the various maintenance and on-the-business work. That's not just your capacity, that's everybody on your team's capacity. And 5% may not seem like much in the abstract, but it translates to about half a day every other week or a full day each month, so it's a lot.

But if everyone on your team isn't consistently spending that amount of time working on those maintenance tasks it's probably the case that you're over allocating capacity to client work or other business functions. And you need to figure out how to reorganize things around getting those maintenance tasks done.

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Another red flag that your practice is over capacity, and this might seem obvious, but if you're consistently working well beyond what you consider normal working hours. That's a clear sign that you're over capacity. And I know what's normal for you may vary depending on your practice, your goals, your history, whatever you're comfortable with. But if you're feeling like you're always playing catch up or you never get ahead, then that's definitely a problem.

And while many of you probably think that normal for a law practice is something more than the standard 40 hour work week and I get that. I can also tell you from experience that it doesn't have to be that way.

Just last month I did a workshop with a firm that has adopted a four day work week and I don't mean four ten hour days, I mean four standard work days with three day weekends being the norm. And they are a thriving, financially successful and growing law practice. They've been really intentional to structure their systems and their capacity management to handle client work and business operations within those four days and it is working for them and for their clients.

So, my point is, it is absolutely possible to have work-life balance and a successful law practice. But if you're regularly putting in 60, 70, 80 hour weeks, that's not going to be sustainable and it's a sign that you probably have too much work in your system and need to reassess.

The third red flag that you're running your practice over its comfortable carrying capacity is, if you don't have time to do what I call sweep the shop floor. And this relates to the first point, but it's more about your day-to-day operations than it is on those sort of longer scales.

My feeling is, you should be preserving a small amount of your capacity every single day for those sweeping the shop floor activities, wrapping up loose ends, documenting your work. Making sure communication with clients and team members is happening and otherwise, updating your

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systems to follow your policies and make sure that you're doing things in a consistent way.

And ideally a task isn't going to be truly complete or a chunk of work shouldn't be considered complete until it's documented, communicated, and your various management systems are updated with a record of that activity. And this basically helps ensure that when you or a team member pick that matter up tomorrow or next week or whenever in the future, everything is clear and accessible, and you don't have to waste time hunting for information or getting status updates.

In the world of Lean or Lean manufacturing, there's actually a concept around this called The 3 S's, sort, sweep and standardize. Of course, sort is what it sounds like. It means organizing information and getting your deliverables in a logical place. Sweep means cleaning out the clutter, including the digital clutter, all the little loose ends that can sort of pile up in terms of getting our work done. And standardize means using the agreed upon tools and structures and policies in a consistent way across every single member of your team.

And again, if you don't have time every day to do those sweeping the shop floor activities, you're probably doing too much client delivery work. And that means you need to tone things down a little bit and reserve enough capacity to manage the work and keep your practice organized.

So, if you can relate to one or more of those warning signs that your practice is over capacity, number one, don't worry, you're in good company. This is well within the realm of what's normal for a law practice. But just because it's common, doesn't mean you shouldn't do something about it. And remember, the problem with having too many different pieces of work in your practice that are open, sort of in progress isn't the work itself. It's all of the little administrative and overhead things that you need to do to manage and keep track of the work.

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I often say, the more balls you have in the air, if you're juggling, the more time you're spending on the space between the balls instead of actually working on one of them. What we want is to lower the total amount of work in process or WIP in your system so that we use your finite capacity to focus on the actual productive work instead of having to use it on the gaps between the work. And there's a few concrete steps that you can take to get to that more sustainable workload. Here's three strategies.

The first one is one of my favorites, and it's often hard, I get it, for law firms to adopt this, but it's to engage in an intake pause. You need to really think seriously about slowing down or stopping completely the intake of new client work until you're able to get that capacity down to a more manageable level. And it's counterintuitive, especially if you're worried about revenue.

But remember, taking on new work when you're already over capacity usually leads to worse outcomes for both your existing and your new clients. You're stealing from the experience of your existing commitments when you commit to too much work. And the pause doesn't have to be forever. The goal is to just give yourself some breathing room to get current work under control and get you to that more sustainable place. And once you've done that, you can start taking on new clients again, but in a more controlled and measured manner.

And I'll actually talk about that in my third tip in just a minute. Once you've stopped or slowed down the rate of new work coming in, the next thing is to focus on this idea I talked about before back in episode five called close the closeable. And that's about identifying cases that are either very close to completion or have stalled out and making sure that you're taking decisive action on them.

And for those cases that are nearly done, you need to make a push to get them across the finish line, whatever that might mean. Scheduling the final client meeting, getting that last bit of paperwork, closing out your system,

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sending that final bill. But you want to get it off your plate because once it's completely done, then you don't have to track it. You don't have that administrative overhead anymore. For cases that are stalled out in the middle, sometimes you need to take a fish or cut bait approach.

Not every case that you accepted is one that you necessarily want to keep working on all the way to done, especially if it's getting stalled out for reasons that are beyond your control like a client that's not really engaged in helping you get that piece of work done.

So, whatever you need to do, either reach out to the client to get things moving again, or make the decision to terminate representation and close the matter. That might mean a difficult conversation, but it's better than letting these inactive cases drain your capacity, your mental energy, and basically clutter up your systems.

Then, once you've sort of cleared some capacity, you've got the intake pause, you've closed the closeable, you really want to make sure that you don't wind up in that same overloaded situation again. And this is where a technique called drum buffer rope can come in handy. And what that basically means is that you are tying the intake of new work to the completion of existing work. You're basically tying a rope on the indoor to the outdoor and you don't let new work in until something else has left.

Clients often talk about this as being like a fancy nightclub. The buffer is basically maintaining a backlog of potential new work or new matters that are going to be available to come in that door. So, it's the line outside of the nightclub, along the velvet rope or whatever.

It's basically a certain amount of excess capacity that you haven't fully committed to, but you're prepared to commit to and people are willing to wait a little bit because they think that you're going to be available. Or you've given them assurance that you're going to be available to do that work relatively soon. And the drum and the drum buffer rope is basically just maintaining a rhythm for your practice.

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And again, once you're down into a manageable amount of work and you're working within your capacity, you want to get things rolling on a relatively predictable cadence. On a rhythm that feels consistent and predictable so that you can make sure that you're taking care of things on a regular basis.

And I'll acknowledge, this approach requires a little bit of discipline, especially when some new exciting or potentially lucrative work shows up. But I promise that sticking to it and maintaining a workload that is within your actual capacity will help you maintain a more balanced, sustainable practice in the long run. And it will also help you get more done more quickly, which is ultimately going to lead to a more lucrative practice as well.

At the end of the day, when you are operating in a world that is less stress for you, it allows you to deliver a better experience to your clients and is ultimately more sustainable for your team. It's going to put you in a better situation for success in the long term. And keep in mind the goal isn't to not be busy, it's to be productively busy.

It's to be busy on work that is actually value added for your clients and delivering that work at a pace that allows for high quality work, that allows for continuous improvement on your systems and workflows. And that allows for you and your team to have a healthy work-life balance. By making sure that you're on the lookout for signs of being over capacity and taking those proactive steps to address them, you're definitely going to be on your way to a more agile practice overall.

Thanks for listening to *The Agile Attorney* podcast. I'm your host, John Grant. If you found today's episode interesting or useful, please share it with someone who you think would benefit from a more agile approach to their legal practice. If you have any questions, feedback or maybe a topic you'd like to hear me cover, you can reach me at john.grant@agileattorney.com.

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