

Ep #37: Putting the 'Flow' Back into Workflow



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John E. Grant

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One of the things I see a lot with my lawyer clients is that they have so many different things on their plate that each piece of work looks like an object, like a static thing that we need to deal with as opposed to a dynamic part of a bigger process. And when you're overloaded, that is totally natural, but one of the things I do in my workshops with my new clients is talk about the importance of seeing work as flow. And it's funny, we use the word workflow all the time and it just sort of washes over us. But in our day-to-day activities, I think we tend to overemphasize the work part and underemphasize the flow.

In today's episode, I'm going to teach you some specific techniques that I use with my clients to help them better understand the flow of work through their high level system. But also drill down to see the more detailed flow through that system's component parts. In doing so, they're able to get work flowing more smoothly and predictably through their workflow overall, 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. So, I am coming off of having just spent a couple of days with a new law firm client of mine doing a two day process improvement workshop and something I like to do a lot with new teams that I'm working with. And I like to do it in person and with the entire law firm team. Because there's something about just giving people the time and the space and the permission to take a step back from the daily grind and really think differently about the delivery of legal work and even the nature of legal work.

Ep #37: Putting the 'Flow' Back into Workflow

So, I'm going to give you a little bit of a preview of one of the topics I talk about in that workshop and that is this idea of seeing work as flow. And the place where that comes from is, I think there's a tendency in teams and people when you're overloaded to just see the pile of things that we have to take care of. And seeing the actual tasks or the work that we need to do sort of as objects, almost as a static thing.

And in some ways, it's kind of natural because when your to-do list is really, really long, the work gets stuck on that list for a long period of time. And so, it's easy to think of the work as static, as the thing I need to do. But when we pull back a little bit and we see a little more context, we begin to understand that of course, work isn't static. It has a natural flow to it. It comes from somewhere, and it has to go somewhere.

And that's the very, very basic concept of flow. But if we decompose that a little bit further, then I think there are some tidbits in this idea that will help you make the work more manageable and be more likely to sort of get it moving forward through your practice. And of course, you all know this at a certain level.

If we think about a pleading in a piece of litigation, you have to get a bunch of information from your client. They tell you their story. You compare that story with your knowledge of the law and your skill and experience. And then you turn that into a document that is the pleading, and that pleading goes somewhere.

So, the draft pleading is the thing that we think we've got on our plate, but then you file that pleading with the court, you of course, serve it on the opposing counsel. And that kicks off a whole series of things that happen in the litigation, not always in a predictable way. It could be any number of things, but it is the thing that moves the process forward. So that's obvious, I think, to all of you and there's similar things in the transactional process as well.

Ep #37: Putting the 'Flow' Back into Workflow

If you're drafting an estate plan, you're kind of doing the same thing, you're getting a bunch of information from the client and you're putting it into the specific format. Some people call it, you speak the secret incantations of the legal process, you turn it into the right spell book and that becomes the legally enforceable estate plan. But I think it's helpful, and the process I teach in this workshop is a toolset that actually comes out of the world of Lean manufacturing.

And Tim Lennon and I talked about it very briefly in the episode that he and I did when he was on the show, episode 16. But the tool is called a SIPOC chart, and that's a funny word. It's an initialism. And basically, what it stands for is, suppliers, inputs, process, outputs and customers. And oftentimes well, when I'm teaching it and when we're using it, we make this a literal chart on a wall or your screen, whatever you're using, but I love to do this on a whiteboard.

So, I will draw four lines on a whiteboard that creates five columns, and we'll think about a process and again, let's say that process is draft pleadings. The draft pleading is the process part. It kind of goes in the middle. And so, once we've got that piece, the actual set of tasks that we need to do, it's helpful to think in both directions in order to understand the flow of work that's going to empower our ability to draft that pleading, to do our process.

But in order to do that process, we need raw materials. We need information and tools and maybe some specific documents, whatever it is. We need inputs in order to be able to do our process. And one of the really most powerful things of this methodology is to get really clear about what those inputs are for any one part of your process. So, for pleadings again, it's going to be a certain amount of information from the client.

It's going to be probably some legal research, especially if this is a newer area for you, but even if it's something that you already know well, you're going to want to know what are the elements of a claim. What are the

Ep #37: Putting the 'Flow' Back into Workflow

possible defenses because you might be trying to sort of build your foundation to avoid some of those defenses. Whatever it is, I'm not going to get too deep into the particular legal strategy. You need things in order to do your work. And the things that you're getting, in this case, this information, you also need a supplier.

So now we're all the way upstream and the SIPOC chart. So, for the information you need to draft your pleadings. You need to know where that information is going to come from. For the legal research you need to do to understand your case law, whether it's statutory or case law or obviously both, you need to know where those are coming from. There's some other things that you need. You might need a template.

And so, one of the things that you will want to make sure before you're ready to draft a pleading is that you know which template you're using for the particular cause of action you're going to file. And then the one other thing that you will definitely need, and this is the thing that people often miss is, you need a resource to draft the pleading and whether that's you or whether that's somebody on your team. You need to make sure that number one, you've got someone with the requisite knowledge, skill and capabilities to be able to do a good job with that piece of work.

Number two, you need to make sure that they've got the time allotted on their calendar to do it. So, one of the key parts of the inputs in any workflow is, I need to have the time and space and ability to do the deep work that needs to happen in order to produce the thing that I'm about to produce.

If we flip over to the other side of the P, our process is designed to create an output or a set of outputs and it can be really helpful to define what those outputs are. And again, in the pleadings it's pretty straightforward. It's obviously going to be the court document that you are going to file, but there's probably also a bunch of ancillary stuff. There's cover sheets of various statements and different jurisdictions have all these different rules about what needs to accompany a pleading.

Ep #37: Putting the 'Flow' Back into Workflow

There's probably all the work around perfecting service or getting the firing just right, but whatever it is, there's a series of tangible things that is going to come out of your pleading process. And you want to get a really clear definition of what those are. It's a set. And then of course those outputs have customers and in pleadings the obvious customer is the court. And if we're going to go a little bit more fine grained, there's actually a few different customers inside of a court. There's the clerks, there's the judge, there might be other people as well, I'm not sure.

And then of course, the opposing counsel is going to be a customer of your pleading, the opposing party is certainly going to be a customer of your pleading, whatever it happens to be. But we want to know who those customers are. And obviously I'm using the word customers sort of broadly here because you don't probably naturally think of opposing counsel as one of your customers. You probably don't think of the opposing party as one of your customers.

But in the context of a pleading, there really are because the whole purpose of a pleading is to try to encourage them to engage in some sort of behavior. And that behavior is probably, go ahead and settle this lawsuit right now and pay me. And that's not always going to happen, but sometimes it is. And if you do get a really good pleading that's well written and it's written in a way that is going to accomplish what you're trying to accomplish with that customer, you can get to a really good outcome. Not every time, but you can get to that good outcome quickly.

And if you've listened to this podcast for a while, going back to sort of my original episode set, you'll recognize some of these concepts. I certainly brought up the concept of seeing work as flow back in episode four where I was introducing just the very high level tenants of the Kanban method. We talked about them again in episode 11, which is the definition of done.

And you might recognize that once you have this list of outputs in the SIPOC chart, that is a great way to feed your definition of done for this

Ep #37: Putting the 'Flow' Back into Workflow

phase of your workflow. So, in the overall litigation process and imagining a Kanban board, and you've got a column on your board that is file pleadings or file and serve pleadings, whatever it happens to be. Then the definition of done for file pleadings is that you have created all of these outputs and you have delivered them to the appropriate customers. That's your definition of done.

If we flip over to the left side of the SIPOC chart, our definition of ready for being able to sit down and do the draft pleadings work, the inputs are the necessary precondition. And the way I talk about it a lot is with a cooking metaphor, which is when you are in the kitchen and you're ready to cook a particular recipe, you want to make sure that you have got all the ingredients for that recipe. That you've got all the tools you need for that recipe. And that you've got time to actually see that all the way through. And those are the really important things.

The last thing that you want to do if you're cooking, I was going to say a complex recipe, but even a simple recipe is, realize that once you've broken a few eggs or otherwise gotten things started. That you've got to stop and go to the grocery store or go bug the neighbor for that proverbial cup of sugar because that's going to do a couple of things. Number one, it's totally going to expand the amount of time you have to take to do this recipe.

But number two, if you've already broken the eggs or started to do some of the things, there's a cost. The recipe is meant to come together in a certain amount of time, and you can kind of ruin it if you have to say, "This has to sit on my counter or I've got to put this in the fridge." And it's going to get soggy or soaked or overcooked or whatever it happens to be. Depends on what phase you're talking about. There's a very real cost to not having everything in place and knowing that you've got them before you start the work of cooking the dish.

Ep #37: Putting the 'Flow' Back into Workflow

And this is one of those anti-patterns I see, and again, not just in legal, all sorts of teams, we always tend to have shiny object syndrome. And so, we really want to, when we get a new piece of work in. And I'm kind of using pleadings almost intentionally and maybe it's not straight to pleadings, maybe it's a demand letter. Whatever it is in the early phases of a new piece of work, sometimes there's very real urgency around it. There's going to be statutes of limitations or other deadlines that we need to address, and I'm not talking about that.

So, when those are in place or when they're in play, obviously we want to address those. But when we don't have those pressures, we still have a tendency to want to work on the shiny new thing and get it started as opposed to taking the time and being really clear that we've got all of the ingredients we need to do a good job on the new piece of work. And so, coming back to the SIPOC chart, I really want you to think about what are the inputs I need before I start this phase of the process, where am I going to get those inputs.

And then once I have that clear definition of ready, I can talk about doing the actual work of creating the deliverable and then delivering that deliverable. And I want to loop back for just one second because I said the most commonly overlooked input is the sufficient block of time to basically sit down and work the thing all the way to done, ideally in a single sitting. We don't want to put it down. We don't want to hand it off to our future selves.

The highly scientific term I use tongue in cheek with my clients is that when you've nailed the definition of ready, when you've understood the inputs and the suppliers section of the SIPOC chart. Then when you finally sit down to do the work, that work should whoosh through your system. Woosh is my technical term. I want it to flow in a way that feels like getting all the way to the deliverable feels inevitable. You're just moving downhill.

Ep #37: Putting the 'Flow' Back into Workflow

You're not constantly trying to go back and do something or learn something or find something that you need in order to get the work done. And that block of time is the hardest thing to find. And who's the supplier for that block of time? You are. And you need to make sure that you're being honest with your capacity, which I talk about a lot. That you have preserved some portion of your capacity, whether through calendar blocking or bucketing, or some other technique. And then really be sure that you're honest about mono tasking on that thing so that you can work it all the way to done.

So, once you've used this technique of the SIPOC chart, you can probably start to imagine how the different phases of your workflow become linked. And so, the outputs from one part of your workflow become the inputs for the next part of your workflow. And they wind up sort of daisy chaining through your system and ideally getting you to the outcome that you're trying to accomplish for your firm, and obviously for your client.

Now, sometimes the outputs that you have enter somebody else's workflow. Pleading is a great example. The pleading is probably going to generate an answer, a response of some sort. And so, one of the things when we're tracking flow through a Kanban system is, once the pleading's filed and we know that the other side has x amount of time to create and file their answer. I love having those phases on a Kanban board because it is a natural resting state.

It's a buffer column where we're not really working, we're not responsible for active work on that piece. It's in a waiting state. We're waiting on somebody else to do a thing. And there's all sorts of different places where I like to use waiting columns in a Kanban workflow. Opposing counsel is one of them, the thing gets filed. In the litigation phase, there are also waiting columns associated with the court, certainly if you filed a dispositive motion of some sort and you've done the hearings and the arguments, whatever you need to do.

Ep #37: Putting the 'Flow' Back into Workflow

There's going to be a waiting period where the judge is just going to take the time that the judge needs in order to do the work. And there's not a whole lot you can do to push it faster. Client homework is another great waiting period. Obviously the discovery process has waiting periods, if you're working with expert witnesses. You can already see. There's tons and tons of these places where there are natural resting states in your workflow that if you're tracking them as a waiting period, that gives you permission to pay a lot less attention to them.

If you're keeping track of due dates and deadlines and deliverables and all the rest, then you'll know that, I don't really have to worry about this for a few more days or a few weeks or a month until I actually expect that response back.

And so again, as we're working a Kanban system, using a Kanban board, part of what we're trying to do is get the work all the way to done, obviously, but done is often way downstream. And so instead, what we're trying to do is get it to one of those natural resting states and that can be a really effective way to manage your capacity and make sure that the work is continuing to flow in a predictable way.

The last thing I want to hit on today is actually related to those resting states. And it's a little bit of an anti-pattern. And it has to do with the timing of receiving the inputs. And so, one of the things that I see and this is really common again, in practices like estate planning or immigration where we're going to need to get a lot of information out of a client. And what we tend to do is want to batch all of the information we need into a single big request, a long questionnaire, a big online interview, whatever it happens to be.

And make sure that the client gets us everything they possibly could get us all in one chunk. And I get the impetus to do that, it's very natural. But what it does is it creates a really heavy lift for the client. And that heavy lift is likely to lead to delay. And that delay is going to impede your flow.

Ep #37: Putting the 'Flow' Back into Workflow

And it gets you into that situation where now you're having to spend time and resources and someone on your team, whatever it happens to be, nagging the client to get that information back to you. Or otherwise sort of project managing that process, or worse, not even project managing that process and just kind of waiting for that client to get it back to you. And what I want instead is to think about timing your requests for information from your client. And also, the size of those requests to really match only the information you need for the immediate next step in your process, or at least the proximate steps.

I don't want you to spend a lot of time bugging your client or any part of your inputs in any part of your system, solving problems that are weighed downstream in your process. You don't just get one bite at the apple here. And so, I'll give you an example again, something that I've been working on with a few of my estate planning clients recently is streamlining the process for the early parts of the information gathering.

And again, the anti-pattern or the common pattern is to have this giant questionnaire and flip it over to the client. And have that as either part of the intake process or part of the really early phase. So that you can start to make sense and do the strategy around what is the suite of documents or the techniques I'm going to use for building this estate plan. And what I recommend doing instead is starting a little bit more high level.

I don't necessarily want to see all of the client's bank statements or insurance policies or the detailed family tree right out of the chute. I want to get a big picture of what is the general sort of size of the estate and the nature of the assets inside of the estate. But I don't want to know the details. And the client doesn't necessarily want to get you all those details or even know why it's important to get you those details.

So, I think as part of the intake process, instead of front loading your entire sort of estate planning questionnaire on the client really early, I say break that into parts. And get the big picture pieces ahead of that intake interview,

Ep #37: Putting the 'Flow' Back into Workflow

and maybe before you've even engaged the client. So that you can talk knowledgeably about the process and how you would approach it. But you're not doing the work before you're doing the work. You don't have to solve all the problems in the intake. You just have to demonstrate to the client that you are capable of solving the problems.

Then, once the client's engaged and by that I mean actually the definition of done, of the engagement stage, which is a signed engagement letter and a fee deposit of some sort or an advance fee deposit if you're billing hourly. Then we'll dive in and we'll go into the more detailed parts of the questionnaire. And, again, part of what that does is it makes it so that the client doesn't have any one chunk of homework that is too big.

Another thing that it does is it gets the client used to this idea of a tit for tat exchange of information and work. So, you ask the client for a little bit of information. You give them some information back or a document or a high level plan based on the information they give. Then you ask them for a little bit more information. Then you come back with the detailed planning documents. And this pattern of exchanging one thing for the next, develops an expectation that you're going to do a little bit of work then I'm going to do a little bit of work. And it helps keep the client engaged in the whole process.

And I recognize that that notion is a little bit in tension with another one of my recommendations which is trying not to have too many hand-offs in a process. So, I'm not saying that there's a perfect balancing point, but you do want to sort of weigh the relative benefit and cost of one big hand-off which creates again, opportunities for confusion, delay, any number of things. Versus having a process that's just very natural and is moving in a predictable way through your system.

Alright, I'm going to leave it at that for today. My call to action for you is, think about especially for whatever phase of your workflow where the work is more likely to be getting stuck. Where is your bottleneck? And for your

Ep #37: Putting the 'Flow' Back into Workflow

bottleneck, that's where it's really useful to sort of pull the process apart using the SIPOC methodology. And if your bottleneck is in the quality assurance phase, which if you listened to the Ben Hudson interview from last week, that's really commonplace for bottlenecks to form in a law practice.

We want to know, what are all the things that need to be true about this document before it is ready for my attention on quality assurance. And then when I do my quality assurance check or quality control check, what's my output? Is it going to be a red lined document? Am I going to fix the document? I want to have a specific pattern, an expectation of what that's going to look like so that I'm sure that the work is continuing to flow. So, wherever your bottleneck happens to be, think about, okay, what are my inputs? Where am I getting those things?

Then what's my process, that's usually the easy part. And then specifically, what are my outputs, what are my deliverables and who are the customers for those deliverables. And I think just pulling it apart and thinking in those slightly more granular terms will give you a lot of insight into why the work is getting stuck in that system and give you some tools for getting it to flow a little bit better.

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Ep #37: Putting the 'Flow' Back into Workflow

Lunareh. That's it for today's episode. Thank you for listening and see you next time.