Ep #55: Fixing the Client Homework Bottleneck

Full Episode Transcript

With Your Host

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Every lawyer I know gets frustrated by client homework. You send that carefully crafted questionnaire or document checklist to your client and then crickets. Days pass, weeks pass, the case stalls. You find yourself or your team spending more time chasing the dang homework assignments than working on the actual matter. And after a while, it's easy to fall into resentment, blaming the client for not taking the matter seriously, or feeling powerless to move things forward, maybe even becoming sort of disenchanted from that particular matter itself.

After a decade of helping law firms improve their workflows, I've seen firsthand that client homework phases are one of the most common and one of the most sticky bottlenecks in almost any legal practice. But I've also discovered something fascinating. The client homework bottleneck isn't actually about the clients. It's about how we assign and structure and support the assignments.

I've developed a set of techniques that has helped dozens of firms dramatically improve their homework return rates while strengthening client relationships in the process. And today I'm gonna share them with you.

You are listening to *The Agile Attorney Podcast*. I'm John Grant, and it's my mission to help legal professionals of all kinds build practices that are profitable, sustainable, and scalable for themselves and the communities they serve. Ready to become a more agile attorney? Let's go.

I am excited to talk about this topic. It's something I've given a lot of thought to and I have actually seen a lot of success with a lot of my clients when they implement these techniques that I'm about to introduce in more detail to you. It kind of came up partly from the conversation I had last week with Tim Lennon about action without action or effortless action, which was the Taoist concept of Wei Wu Wei.

As I said in the intro to this podcast, I've seen over and over again how the place where a law firm's work gets stuck in the lawyer's workflow is some form of client homework phase, either information gathering that you need in order to do your work or getting the client to review and sign off on your work product. And in last week's episode with Tim, I specifically brought up the anti-pattern of fence chucking or throwing poorly defined tasks into somebody else's court as a way of getting them off your plate. And I think that happens a lot with client homework.

It happens in other places of your practice too, but I'm going to focus on client homework for today. And if you recall, Tim and I discussed how this sort of fence-chucking might feel efficient in the moment because you just need to reclaim your capacity. But in reality, it's likely going to create a bunch of failure demand or additional tasks that arise, like follow-ups or answering obvious questions or dealing with poorly completed assignments that wind up making fence chucking far less efficient over time because you have to do more work to get the thing actually done.

So in this episode, I'm going to build on a lot of concepts from several other episodes, and all of these are going to be in the show notes. So don't feel like you need to keep mental track of them, but I'm going to rattle them off because I think you might find it useful to go back and review some of these concepts after you finish this episode.

I'm gonna start with bottleneck theory, which I first explained back in episode 3, but also discussed with the author of one of my favorite books on bottleneck theory, Clark Ching, in episode 39. I mentioned failure demand a moment ago, and I do a deeper dive on that concept in episode 7, which is titled The Kingman's Formula and the Law Firm Freeway. And I actually first introduced some of the high-level concepts around this client homework tool set in episode 36, which is what to do when I'm the bottleneck. And that's got a lot of other tools for you to use when work for the firm or your practice is constantly queuing up in your personal to-do list or inbox.

But again, for this episode, I wanna really focus on the bottleneck and the frustration that a lot of attorneys and their teams feel specifically around these client homework assignments. So let's start by taking a step back and sort of trying to view the homework assignment from an attorney or an attorney's team through the lens of the client, right? What is going on in their life, in their minds, when they're receiving a homework assignment from you, their lawyer, or someone on your team.

And let's start from the reality that your clients are probably just as overworked and over busy and over scheduled as everyone else in modern society. We are in this crazy time of humanity where there just are so many different demands on our time and attention that it feels hard for everybody to get them all done. And without diving too deep into like the woes of modern life, just recognize that there are a lot of really powerful and well-researched interests that are trying to fragment people's attention and basically use all of the great sort of scientific research around brain science and behavioral economics and other things to get people to do things that the companies want them to do.

Obviously, there's advertising is all about that. Social media and the app economy is full of dings and boops and red dots and other sort of forms of gamification that are designed to hack people's sort of brain chemistry into paying attention to the things that the company wants you to pay attention to, right? The outside force wants you to pay attention to as opposed to those things that internally you sort of find important or you're trying to get done in that day. And I know you all feel that. I feel that. Your clients are feeling that as well.

So frankly, part of your job and part of your challenge when you are sort of trying to get the attention of your clients is you're competing with all of the other things going on in their world and competing for their time and attention and brain space.

Now, layer on top of that, the fact that number one, most of your clients probably aren't super familiar with the types of requests that you need. So they're dealing in something new and uncertain and unfamiliar. Therefore, it's gonna be an even higher cognitive load for them to figure out exactly what it is that you're asking, what they need to do, what their actual action items are.

And then of course, to make it even worse for most of you, you know, most clients aren't working with an attorney for fun or for pleasure, right? These are people that are in a tough situation of some form or another, or even if it's something that is a little bit more happy, right, forming a business or doing things like that, it still isn't going to be as sort of rewarding in an instant way as the dopamine squirt things around games or shopping or stuff like that.

And so not only are people naturally going to want to procrastinate these unfamiliar and uncomfortable items, they're going to easily find other things they can do with their time and capacity that will allow them to procrastinate, right? There are things they would rather be doing they get better signals from.

One of the things I will sometimes talk about with my clients is that your clients are operating in a high FUD environment and FUD is an acronym that is short for fear, uncertainty, and doubt. And it creates almost emotional barriers inside people's head that block their engagement, that lead to procrastination, that are driving up stress and making it hard for people to do even what they know they need to do because there's these other things that are kind of hijacking their nervous system that get in the way.

So how do we get around that? Well I've got sort of a six part model and you don't have to do all six parts. I think they tend to be cumulative. The stuff I'm going to talk about in the early phases is stuff that you can do on a standalone. And if that's all you do is, you know, part one or part two of this sort of tool set, that's gonna be fine. You're gonna get some great benefit from it. But as I'll talk about a little bit later, they really do work well when you start to layer them together and sort of present the whole thing as a package.

So don't feel pressure to get it perfect, just get started. But I do think that starting to do some of these things in your practice is going to make a difference.

Alright, so the first part of this model is to be really strategic about using due dates every time you give a client a homework assignment or negotiate a homework assignment with them, as I'll talk about more in a minute. So the first anti-pattern is when I see lawyers or legal teams sort of assigning client homework or asking for something from a client with no due date at all, right? Get this back to us when you can. And I see that a lot. I understand sort of where people are coming from when they do it, but it is a terrible, terrible idea, right? It is the best way to make sure that someone has permission, effectively, to procrastinate to infinity on this particular assignment.

It means that you're going to almost certainly have to follow up and nag them at some point. So part one of this step is to just always set due dates. Part two is to set whenever possible the shortest due date you can get away with. And this is important, right?

So my general rule of thumb is you should never assign client homework further into the future than three days. Now that probably seems crazy short to you, but also when we talk about it in context with some of these other techniques it can be really, really effective.

So here's why. First and foremost it creates a sense of urgency and that's helpful right? You want to encourage speed, you want to encourage predictability in the flow of work through your practice. And setting a three-day turnaround time is a great way to begin that process.

Also, when you're asking people to commit a certain amount of their finite time and attention, they have a pretty good sense of what's on their plate over the next three days. Once you get further into the future than that, then they know what they need to do to an extent, but it becomes more and more vague, right? It's a hazier notion, it's not a solid notion. Most people are able to sort of carry their commitments for the next few days in their heads.

Now that sort of information decay comes in in another way, which is if you can actually get the client to commit to this three-day turnaround, they're gonna have the information that you've given them, the context for the homework assignment really fresh in their heads. Whereas if you go with longer and longer turnaround times, then the information they have both about what it is that they're supposed to do and why it's important that they do it is gonna start to decay over time, right?

I sometimes say that information like that has a half-life and the shorter you can get people to engage with it, the better and the fresher they're going to be in terms of formulating their response. Now I don't recommend using three days as a draconian rule, right? It is not a one-size-fits-all. In a lot of ways, it's sort of the opening salvo in a negotiation around this due date. And I actually think that's a really good way to create engagement with the client and make it more likely that they're gonna turn this work around.

So when we talk about negotiating due dates, I would say, you know, again, whatever the homework assignment is, I need you to fill out my questionnaire, I need you to review these drafts. I'd really like it if you could get this back to me by the end of the day, Friday, right? Or whatever three days from now is, and then pause for a minute and ask the question, is that realistic for you? Then just wait, let the client answer that question, right? They need a minute to sort of wrestle, to sort of go through what all of their other commitments are gonna be over the next few days and figure out whether that's realistic or not.

Either way, by asking that question, is this realistic for you, part of what you're doing is getting commitment from the client. And so if the client says, yes, that's realistic, then great. You have just gotten a commitment from them that they're going to turn this around in your three-day time frame.

If they say no, no problem. You say, hey, I get it. We're all busy. No big deal. But I really do need this from you. How soon do you think you can turn this around? Now, that's a very specific formulation of this question, right? I'm not asking when can you turn this around because that sort of puts things out into the future. I want you to ask how soon can you turn this around and then again let the client wrestle with it. Give them a minute to think.

Most of the time they're going to come up with an answer that is maybe five days out or maybe seven days out, whatever it happens to be, that's going to be fine for you. Because again, unless there's like a really true deadline, right, that you're going to miss something or there's going to be a consequence, these due dates are a little bit arbitrary. But the most important thing is that the client give you a commitment that, again, they're going to feel obliged to stick to. That doesn't mean 100% that they are going to stick to it, but you're starting to sort of lay the foundation for making sure that they turn that around in the time that they said they're gonna turn it around, not that you said they need to turn it around, right?

You're going with their intrinsic motivation, not your sort of extrinsic dangling of either carrots or sticks. Now, obviously, if they say, hey, I can't do this for three months, then you need to have a different conversation about whether you should actually be doing this work for them right now. But I think that's going to be the exception more than the rule.

Now, one other part to this practice, and I maybe assumed it was happening this way, and I should call this out explicitly, is that you should be doing these homework assignments or these requests for client work, ideally in a one-to-one conversation. So in person, if they happen to be in your office, over the phone or a video call is the best way. I really want you to avoid doing them over email because you can't have conversations over email. Everything you put out there to them is just another thing in their inbox. There's gonna be pauses and delays and the back and forth just takes too long.

So if you're going to be assigning homework or again requesting things from your client, I really, really encourage you or someone on your team to pick up the phone and do it in a one-to-one way where you can actually do this negotiation as opposed to using email, which is a whole other set of obligations and problems that I won't dive into right now.

Now, I also want to acknowledge, and this actually came up for me very specifically in a workshop I did a couple of weeks ago, where one of the attorneys was really frank and she said, I can't give people short deadlines because I can't commit to short deadlines myself. I feel like a hypocrite If I'm going to give my client a short deadline and I can't turn it back around on its own short deadlines.

And look, I get that 100%. I don't like feeling like a hypocrite. I know you don't want to feel like a hypocrite. And what she's really saying is I'm so over capacity, right? I am already so overburdened with my work that I don't want stuff coming back onto my plate so quickly. I need it to live in this uncertain place of the client owes it to me as a way of managing my own demands and my own timeframe. So I get it, it's human, it's 100% natural. I'm gonna really strongly encourage you not to do this.

And even if it means being hypocritical for a little while, the solution to this problem isn't to let the homework sort of sit in this back eddy of the client owes it to me, right, which is the antithesis of flow to your system. We're going for flow. The real answer is to get your capacity in line so that you actually can deliver the work. And this is less about building your capacity and more about managing your demands on it.

I really like this technique whenever possible in the context of an intake pause, right? We're trying to sort of slow down new sources of demand or new commitments that you're making with your time and attention. Even if you can't do an intake pause, I think that you need to be thinking about this notion I talk about of close the closable, right? How can we reduce the total volume of work that we've committed to so that we are more effectively able to push more things forward more quickly, which over time is going to allow us to handle a greater volume of matters in the long term by focusing on less concurrent things in the short term.

And I know I rattled off a lot of podcast episodes at the top of the show, I'm gonna give you one more, which is episode 5, is the place where I talk about this concept of closing the closable. But in the meantime, with respect to the client homework specifically, I'd rather it be stuck in your part of the workflow than in theirs, because now at least you have control over it. And when you do have your capacity free up to be able to give time and attention to that matter, you've got everything you need in order to do it. You don't have to engage in the failure demand activities of chasing down this client homework, doing these back and forths, et cetera.

Okay, so that's part one. Strategic due dates, specifically number one, assign a due date, and number two, make it as short as you can get away with, with a default of about three days. Part two of this technique is to be really clear with your client about what the scope of your request is, what is the scope of their work? And you can do this in a few different ways, right?

Number one, I think when you're assigning homework, you want to give a really clear sort of punch list of these are the specific things I need you to do. Clear, actionable language, where possible, breaking down more complex requests into, you know, discrete phases or tasks. And then I think also describing them to your client in a way or asking for them in a way that is not using a bunch of legalese or jargon or things like that, right?

So being really clear that you're trying to reduce their cognitive load by giving them better and more information, sort of a work breakdown structure, if you're looking at it through the lens of a project manager, so that people know what it is that you're asking them to do.

It can be also really helpful to make sure you're clear about what they don't need to do, right, help them define what's not in scope. Because again, if they don't really have familiarity with the type of thing you're asking them for, they could blow it up in their minds into something that is far bigger than what you actually need. And that is gonna add to their procrastination and delay in terms of getting it turned around for you. So being really clear about what needs to happen. And then if there are some things you know that people sometimes mistakenly think about your particular work or assignment, make sure you let them know what's not in scope, what they don't have to do, so they don't make a mountain out of a molehill.

Okay, so how do we layer these things together? Going back to the due date question, if you're asking people, is it realistic for you to turn this request around in three days, and they don't know what the scope is, then they're not going to be all that great at asking themselves or answering that question, is this realistic? But once they know what the scope is, they're going to be better equipped to give you a good answer to that question as opposed to making assumptions or having questions, etc.

Now, the third part of this technique, and really it's pretty closely related to the second part, is when you give people this breakdown of what the actual action items are, also try to give them a time estimate. And you can do it a couple of ways, right?

Obviously, if you're doing the work breakdown, you can also break down the estimate for how long a particular thing is going to take. If you need someone to provide you bank statements, say, from their financial accounts, if you're doing family law or estate planning or any of the practice areas that might need that information, then say, hey, I need you to log into each of your financial accounts. And most of them have the ability to download a PDF of your most recent statement or your five most recent statements, whatever you need. And then in parentheses, right, and I'm saying this verbally, parentheses, but for most people, this takes about five minutes per account or three minutes per account or whatever it is. So being able to sort of give those time estimates in context of the work breakdown is really helpful.

Also helpful, in fact, possibly more helpful is to give someone a roll-up time estimate. So for people in your situation, this request typically takes about half an hour or between half an hour and 45 minutes or whatever it happens to be, but you want to be able to let people ask themselves a very specific question when you ask about the turnaround time.

So again, I'm gonna layer. If the question you've asked is, is it realistic for you to turn this around in three days? Really what you're asking once you've given a time estimate, and you can even be explicit about this, is do you have an hour to spend on this in the next three days? Or is there an hour on your schedule that you can devote to this in the next three days? And that's a really good question that people can answer yes or no. And they'll be able to tell you whether they can carve out that time.

Now, obviously, you want your time estimates to be realistic. You don't wanna go overboard and sort of pad them too long because if you say, yeah, do you have six hours in the next three days, then people are probably gonna tell you no. So maybe you need to break the work down, whatever it happens to be, but you get the idea, right? You really wanna be clear what needs to happen, how long you think it's gonna take, and then that turnaround time is gonna be far more actionable for the client.

And then also if they say, look, three days isn't reasonable, they're better able to say, when am I gonna have three hours to do this? Or when am I gonna have the time to do this? And they will negotiate an appropriate due date with you more accurately.

So those first three things, that's kind of the first part. Like I said, you can just start with the due dates, but if you use the due dates, the negotiated due dates, the clear definition of scope and a clear time estimate, those are gonna be the things that get you the most bang for your buck in changing how you request client information or assign client homework.

The rest of these things are kind of add-ons that I think over time are gonna make this even more efficient, but they're not quite as magical in their own standalone way. They mostly need to be used in connection with these other three techniques.

The first one is to provide some orienteering, some navigation as to why this particular assignment or request for information is important to the client. You want to link it to their goals, their objectives for their case, their matter, whatever it is they're trying to accomplish by hiring you to help them with their legal work.

And so don't just say, hey, I need all these financial records. Say, I need these financial records in order to comply with the initial disclosure requirements of your divorce or to have all the information I need in order to write the draft of your escape plan or whatever it happens to be, but give them the context of what in your process it's needed for and let them understand that there's a little bit of but-for causation there, right?

If you don't get me your homework, I can't then do the thing I need to do in order to help you. That's in the short term. Even more sort of big picture, it can be helpful to tie that specific deliverable to the broader goal, the overall goal.

So again, we need to do the initial disclosures in your divorce because that's gonna put us in the best position to understand what other discovery we may need to ask for and get us to the point where we can propose a divorce settlement that's gonna help you get what you need out of this dissolution in a way that is as speedy as possible while making sure we cover all the bases, right?

So not sure if I said that in quite the best way, but I think you get the idea that we really want to tie it to, yes, the short-term need, the part of your process that you're in, but what is in it for the client? Why it's a good idea for them to engage now so that you can more quickly achieve the outcome they're trying to get to in the future.

I sometimes talk about this with my clients about the concept of client engagement. And obviously I'm not talking about the engagement letter. I'm talking about making sure that the client stays connected to their matter, stays engaged with you and is doing their part of the work so that you can move the whole thing forward.

One of the things I certainly found when I was in law practice and a lot of my clients find is that you almost need to be constantly re-recruiting the client to be a participant in their own cause. There's a mindset where they've hired an attorney and they think you're just gonna take care of stuff for them and that's obviously not realistic for most practice areas, right? Most of the time you're working with them to accomplish a goal, not just sort of taking their load on your back and getting it done. And you wanna communicate that clearly and often to your clients.

The next thing, sort of number five in this technique that I strongly recommend people work on, it's not as urgent, it's not as impactful as the other things, but I think that it really can be a barrier is to optimize the way that you receive the homework back. Make it as simple as possible for the client to get you what you need in a way that makes sense and is easy for them.

And the first thing that I will say is that if you are just sending people over a PDF form and asking them to fill it out, especially if it's not a fillable PDF, like that's a really high barrier for people. It makes it complex and complicated to comply with your requests. Even fillable PDFs aren't great, mostly because they don't really work on mobile devices all that well.

And so if at all possible, and again, this isn't the first thing to do, but put it in your sort of hopper and think about when you might be able to do something like this, convert your intake form into an actual online form. And you can use Typeform or Jotform or Google Forms or whatever the Microsoft Forms is, I forget what they call it, but make it something that people can work through on whatever device they have with them as opposed to making them print something out and write by hand or figure out how to type on a PDF or PDF typing tool, or again, even fillable PDFs, they're not that great.

A lot of document automation software has some of this built in. So I know Gavel can do this. I think you can do questionnaires and things in Hot Docs, in DocAssemble, in LawYah, which is now I think Clio Draft, whatever it happens to be, use your systems to build ways of ingesting information that are going to be simple for the client.

If you need actual documents, PDFs or scans or whatever, I think it can be useful to invest a little time and energy in making sure that clients can provide those for you in an easy way. And I know some of you just sort of let people snap photos with their phone camera and text them or email them or maybe upload them through a client portal or a form or something. And then you can turn that image into whatever format you need to. And sometimes that's a way more efficient way, right? You're accepting a little bit more work on your end, but it's in the name of making things easy on the client because you want these things to be in your control.

It's a lot more predictable and actionable, even if it's a little bit more work for you or someone on your team. If you are gonna push it onto the client, I've seen lawyers that have very specific recommendations for scanner apps for the phones, right? Whether it's an iPhone or an Android, things like that, right, but invest in making it as simple as possible, providing clear direction, not just on what the assignment is, but how to comply with the assignment or how to get you the information that you need.

The sixth thing and the last thing for now in this sort of overall technique is all of these things work better, right? Your requests for information work better if you have telegraphed them ahead of time.

And this actually segues into another topic that I will do an episode on eventually, but I use it all the time with my clients, which is client journey mapping or client road mapping. Setting clear expectations up front about what the process is gonna look like, and then whenever possible, indicating the parts of the process where the client is gonna need to engage a little bit more, right? When are they gonna have things that you need information from them?

Highlight that early in the journey, maybe even before intake, before they've signed up with you. Being really explicit about this is what the phases are, and I'm not just going to take your gunny sack of problems and sling it over my back. We're going to unpack your gunny sack and you're going to have some things to do and I'm going to have some things to do, and then together we're going to work you towards your goal.

All right, so I'm going to wrap this up. How do we put it into practice? Number one, I would say go roughly in the order of the things I've discussed, right? Starting with due dates. Better yet, start with due dates plus a punch list plus a time estimate. And if you can formulate your request to your clients with those three things, I guarantee you're going to have number one, faster turnaround time and number two, better accuracy, which ultimately means less failure demand, right? Less need you have to sort of nag people or follow up and less times that you're going to have to go back to the client because they didn't get it right the first time.

I think it can be important, right? Using the Kanban practice of making policies explicit, be really clear that you have a client homework policy and that these are the elements of it. Socialize that, or better yet, create that policy with your team or let someone on your team sort of take the first stab of engaging the whole practice with that policy, and then agree as a team that we're going to try this. We're going to see how it works. We're going to discuss the problems and make tweaks in order to improve how we do client homework because all of it right in the vein of continuous improvement is going to help you get your work to flow more smoothly through your entire practice by working at this particular bottleneck.

The last thing I'll leave you with is that these techniques are actually really good client experience techniques, right? By being clear that you have a plan, that you have a roadmap, by being clear that you know what the work breakdown structure is, by being clear that you know about how long these things take, you're communicating expertise and experience to your clients in a way that is going to give them a lot more confidence in you. And that confidence is going to engage them, right?

They're going to be more likely to listen to what you have to say, to engage with your requests and do the things to sort of make you happy as the expert because they're gonna trust that your happiness or your satisfaction, I guess, with their performance is actually gonna be a good thing in terms of their longer-term goals and objectives with this legal thing, whatever it happens to be.

Obviously, for me, as a process improvement person, I like it because it's going to speed up flow, right? It's going to ultimately reduce in efficiency gains because you're going to have reduced follow-up time. The work is going to come back. And once it does come back, hopefully it's going to be in a format that you can really use to then get through your work more efficiently. And that's going to make the whole practice just a lot smoother, a lot more predictable, and that's ultimately what we're going for.

All right. As always, if you have specific questions about this or concerns about how it might work in your own practice, I encourage you to reach out to me. I'm happy to bounce these ideas around. You can either contact me through my website, set up a discovery call, or just email me at john.grant@agileattorney.com and we'll set up a time to sort of run through it.

If you find this useful or you know other attorneys that you think could benefit from this technique, maybe even just people on your team, I encourage you to share this podcast with them. Hopefully they'll find it useful too. And I feel like every podcaster says this, but it really does help other people find this podcast if you take a minute to rate and review me either on Apple podcasts or on Spotify, because it just helps daylight this for other legal professionals that are looking for operations help.

As always, I want to thank my incredible production team over at Digital Freedom Productions and the theme music for this podcast is Hello by Lunara. Thanks so much for listening and I will catch you next week.