

Ep #97: Creating Space Within Your Law Practice: Finding Momentum Without Overwhelm



Full Episode Transcript

With Your Host

John E. Grant

[The Agile Attorney](#) with John E. Grant

Ep #97: Creating Space Within Your Law Practice: Finding Momentum Without Overwhelm

Hey everyone, welcome back. So, this is going to be a little bit different style episode than I usually do. I'm not going to run a hook in my regular intro, so just to get a few details out of the way, I'm John Grant. You're listening to *The Agile Attorney Podcast*.

And I talk week in and week out about my mission of helping legal professionals of all kinds build practices that are profitable, sustainable, and scalable for themselves and the communities they serve. And I really strongly believe in that mission. And today I want to really focus on the sustainability part of what it is that I do.

As we slide into the Thanksgiving holiday in the US and the broader holiday season or the solstice season here in the Northern Hemisphere, I think we can all agree that it's been a year. There's been a lot happening, there's been a lot of developments in sort of the social political space. There's been a lot of developments in the technology space, and all of the things that are happening tend to bombard us with these things that want to take up our time and attention, our finite capacity that I talk about.

And I know for a lot of the clients I talk with, a lot of the people I talk with in general, thinking about this thing I've talked about before around embracing seasonality, which is a concept I have learned from Cal Newport, that this really is the season to do some reckoning, some consideration, a little bit of contemplation in order to figure out what are the things that are really important to you, to your team, to your family, to your community. And how can we then create systems and practices inside of your law practice to be able to support that in a sustainable way.

And as I thought about what I wanted to talk about today, what I thought would be helpful to talk about today, the overarching term and sensation that kept popping into my head was this two word phrase, create space. I think it is just one of the defining features of law practice in this day and age and maybe just life in this day and age, that there is too much, right?

Ep #97: Creating Space Within Your Law Practice: Finding Momentum Without Overwhelm

There's too much stuff that is clamoring for our finite capacity that's trying to take up our time and attention. And if we're not intentional about creating space and then holding that space, protecting it in order to focus on the things that are really important, then it just becomes this place where we are constantly under the tyranny of the urgent or maybe not even the truly urgent, just things that are giving off urgency signals.

Other people, other entities want to make you think that something's urgent in order to literally capture or steal your time and attention and get you to focus on what they want you to focus on as opposed to the things that are truly important to you.

And one of the problems with this world that is full of urgency signals is that they're always colliding with each other and they're interacting in ways that maybe even amplify and put us in this state where our nervous systems are primed for responsiveness in order to deal with or maybe trying to protect us from all of the chaos of these signals.

And so part of what I hope you'll get out of this episode today is a little bit of fortification, a little bit of permission to really look inside of your law practice and how it intersects with your life overall and the lives of the people you care about both inside of your team and inside of your family and other places so that we can really hold space and be able to kind of close out this year in a way that feels right and powerful and then also prepare ourselves for next year in a way that maybe feels a little bit more focused and intentional so that we can really make sure that we're driving things towards our own goals and not just the things that other people want from us.

And I'll start just by laying bare my assumption behind this episode, which is, you probably have more things on your plate, more commitments that you've made to various people in the world, including yourselves, then you can reasonably handle in a given period of time. And I've called this state overwhelm in the past or overload, overburden.

Ep #97: Creating Space Within Your Law Practice: Finding Momentum Without Overwhelm

It's that feeling that people get that I'm constantly fighting fires and therefore I never have time for fire prevention. Or I have so many things on my plate that I'm worried something is going to slip off and fall through the cracks. Whatever it is, it is a tough place to be. It's a place that maybe we feel a little bit inured to that we've become normalized around, but it's not necessarily the place that is going to be good and useful for us in carrying out our goals going forward.

And so I'm going to give you a few concepts and I learned these and I use these in the context of Kanban boards or Kanban systems, but you don't really need a Kanban system in order to practice it. I've said before, I think it's unfortunate that the word Kanban is used both to describe a board and then also this sort of broader system or philosophy around how to manage work.

But in any event, if you're using a Kanban board, you will certainly recognize these things and maybe I'll even talk about how to do it in the context of whatever kind of board you're using, whatever software or tool you're currently signed up with. But even if you're not using Kanban, you know, in terms of cards and columns flowing through a system, these concepts are still really good concepts for how to think about things and your own capacity in the work that you're trying to do.

So the first thing I'll bring up is a concept, a metaphor that I've mentioned before, which is when your bathtub is overflowing, the first thing you need to do is turn down the tap. If not, turn it off entirely, but that's not always possible. We've got to at least figure out ways to turn it down.

We can spend lots of time and energy finding buckets and rags and towels trying to clean up the mess or move the water to other places, to store it in other places. But none of that is going to solve the longer term thing of most people most of the time are simply committing to more things than we reasonably can accomplish in a given chunk of time, right, given our finite capacity.

Ep #97: Creating Space Within Your Law Practice: Finding Momentum Without Overwhelm

A couple of the things that we use in the Kanban method to help support that. One of them is whip limits or concurrent work limits. And basically just saying we have a number that says, if we're talking in the law practice, we won't take more than X number of cases at this particular level of work. We are full and even if there is more demand, even if there are more requests coming in for your expertise and the work that you do, you have to learn how to say no or at least not now.

And we need to build systems and I've talked in the past about these nightclub style systems where we're going to commit to managing our capacity and therefore that means that we're not going to let new work into our system until we've actually let some other work out. We've closed something down so that we've built space in order to take on this new commitment.

The other concept that I've talked about before is a definition of ready or a quality standard. And it seems funny sometimes to think about this notion of a definition of ready as an actual quality standard.

But here's what I mean by that. And this really gets to this idea of limiting the intake even if you're not turning it off all the way, is coming up with the definition of what are the attributes of a particular case or client or problem that you could reasonably help solve, but that actually is a good problem for you to help solve. It's the kind of thing that is right for you. And not to get too cute with the wordsmiths, but it is literally what is the type of work that qualifies for your expertise that qualifies for your finite time, attention, capacity, et cetera.

You want to create a quality experience for the clients that you have, the clients that you take on. You want to preserve a quality experience for yourself and for the members of your team that are responsible for doing the work. And so in order to maintain quality, you have to create a qualification, right? You have to basically say this is the kind of thing that

Ep #97: Creating Space Within Your Law Practice: Finding Momentum Without Overwhelm

qualifies for me. And then that means we are going to disqualify other things.

We live in a world where the dominant signals coming at you from a marketing standpoint, even from a cultural standpoint is all about more and growth and how can we speed things up or get more things done. But more is not always better. Better is better.

And so one of the things that is really going to help you preserve your capacity is to be really clear on what is a good case, what is a better case. How can I make sure that I'm not taking on the kinds of work that are going to drain me and take up my capacity and not actually fulfill my personal mission, our business mission, the particular genius and skill and expertise that you bring into the world.

So, once we've turned down that tap, maybe we've turned it off entirely, right? I'm also a big fan of an intake pause, but I think the quality standard is the more durable longer term solution. But once we've turned down that tap, the next thing we've got to do is find some ways to get rid of things that are already on our plate. If we are at that place of overwhelm, we've got to do the thing that I've talked about before, close the closable in order to create more of the space that we need in order to be able to get things done in a more consistent, predictable, and manageable way.

Now, one way to focus on closing the closable and again this is in the context of a Kanban board where you've got the various stages of work and on the far right you typically have a done column. And when we approach a Kanban board and by we I mean people that are experienced in the methodology, one of the things that we do that is counterintuitive is we read the board not from left to right, not from beginning to end, but we start on the right side.

Ep #97: Creating Space Within Your Law Practice: Finding Momentum Without Overwhelm

And so we read a Kanban board from right to left, which is to say the first work items that we pay attention to are those things that are already closest to done.

One of the metaphors that I use with my clients all the time is I want you to imagine that the done column on your Kanban board is magnetized and that all of the cards that are on your board are also magnetized. And so the closer a card gets to that magnetized done column, the stronger it should feel the pull of that magnet. And that pull is really important, right? We want to be really generating momentum and pulling work through to done as opposed to this opposite approach when we start on the left side of the board where we're simply just pushing more work into our system.

And so when we address the Kanban board from right to left like this, it sort of changes the conversation around doing work and it transforms it from what are the things that we can do to what is the progress we can make or better yet, how can we actually get this piece of work that is nearly done across that finish line so that it is completely done.

Because when you get work across that finish line, you get it to completely done, there are three really important things that happen. Number one, assuming you've got your system set up well, you have fully and finally met a client need, right? You have gotten them across the finish line with whatever issue it was that they hired you to help address, whatever problem it was that they hired you to help solve. And, you know, that's not to say that you solved it perfectly. Hopefully you did, but that's the nature of legal work is that it doesn't always go exactly how the client envisions it from the outset.

But it is also true and I think it's easy sometimes for attorneys to lose sight of this because we live in this world of legal ambiguity, but clients do not. And they are experiencing a huge amount of discomfort just from the fact that their legal matter is unresolved, right? They're dealing with this uncertainty that is difficult for them. They don't want to live their lives like

Ep #97: Creating Space Within Your Law Practice: Finding Momentum Without Overwhelm

this day in and day out. It's the, you know, sword of Damocles hanging over their head.

And so by giving them closure, regardless of whether it came out the way they wanted, you still are providing a tremendous benefit. They're able to move on with their lives without having to worry about this particular issue anymore.

The second piece of value is generally they will pay you when you have accomplished that for them. And again, I know that's not always perfect. There's lots of potential challenges around it and maybe you're a flat fee person, which I'm a big fan of, which means that you got paid beforehand and the closeout doesn't necessarily trigger the payment.

But what it does trigger, I mean, if you're in the world where you do send that final bill, then yes, you get paid. If you're in a world where you are paid up front and you're simply just closing it out, at the very least you've resolved your delivery debt, right? All of the things that you owe the client in response to that payment are now done. So maybe you're not bringing new cash flow in the door, but you also have completely closed the book on that particular piece of debt, not financial debt, delivery debt, which I've talked about in the past as well.

But either way, right, you have delivered value to the client and you have received value in return. The transaction is effectively closed at that point. Not to say there won't be something else that comes up down the road, but for this particular thing, it is done.

Which leads to the third benefit of getting things across that finish line, which is you create space back to the theme of this episode. You've opened up a piece of your capacity that you no longer have to apply to that particular case or that particular set of problems and that allows you to bring more work in eventually, right? Again, within the context of balancing your commitments against your capacity.

Ep #97: Creating Space Within Your Law Practice: Finding Momentum Without Overwhelm

To go back to that magnet metaphor, right? If there's a bunch of work that is stuck in this closeout stage, right, which is often the column that we create on a board that's right before done, all of that work is blocking the pole of the magnet from the other cards that are deeper in or you know, closer to the beginning of your workflow.

And so by clearing out that column, what I sometimes refer to as sweeping the shop floor, right? We need to get rid of these things. It's often little administrative tasks that need to happen. It doesn't always involve deep or highly intellectual work, but it is taking up your capacity.

And so finding those things that are closest to done, getting them across that finish line, putting them in the done column, getting them off your plate is going to allow you to have more breathing room and also have that stronger pull for the work that's deeper into your system. So when I talk about close the closable, the best possible way to close things out is to actually get things done. That's the happiest situation.

Now there is another way to close the closable which is for all of the commitments that you've made in the past, right, which is to say all of the work that is currently in your system that you're tracking, not all of it necessarily qualifies for your expertise and capacity. Especially if you weren't doing a great job qualifying things up front for a period of time, or maybe even you tried to qualify them up front but something changed along the course of the relationship and for whatever reason this particular piece of work is no longer working for you.

And I've recently with some clients started talking about a tool from the general zeitgeist from a few years ago and that is the book by Marie Kondo, *The Life Changing Magic of Tidying Up*. And for those of you that maybe missed that particular cultural touchstone, the basic premise behind Marie Kondo's method, and she's talking about sort of reducing household clutter, is let's say you're trying to clean up a bedroom or a closet that you

Ep #97: Creating Space Within Your Law Practice: Finding Momentum Without Overwhelm

would take all of the clothes out of the closet and you would pile them in the middle of the floor so that you can see everything, right?

And this is one of the key concepts. It's very Japanese, it's very consistent with Kanban, is that we want to make everything visible, right? We don't want to be guessing, we don't want to be deluding ourselves, we don't want to be hiding from things or having things hide from us. We want to get all of the work out and make it visible.

And with law firms, this is something that I do when we're creating a Kanban board, right? We create the columns on the board but then we create a card for every single matter that's inside of your system and in doing that we're giving it a visual physical representation that allows us to do this assessment which is the next part of the Marie Kondo method.

And what she would talk about is once you've got everything out there, you should pick up each item of clothing or each object in the room one by one and actually hold it, assess it. And then the thing that she says that you should be looking for is a determination and a recognition of whether that item sparks joy. And as funny as it might be to say, I think you can do the same thing with respect to the work that is inside of your law practice.

If you go through all of your existing commitments, right, and again whether that's reviewing a Kanban board or some other way of doing it, but you really take a step back and assess, does this spark joy? Does this meet the qualification for the kind of work that we should be doing, that we like doing, that we're good at doing?

It gets you to an interesting inflection point, which is if it does spark joy for you, then of course we want to keep doing it. And so we're going to keep it, we're going to maintain that commitment. But if it doesn't spark joy, either because it was the wrong type of matter to begin with or maybe something changed along the way, it is okay to de-commit from that piece of work.

Ep #97: Creating Space Within Your Law Practice: Finding Momentum Without Overwhelm

We don't have to continue to throw good effort after bad in order to maintain a commitment that maybe we shouldn't have made to begin with or maybe that is no longer meeting the criteria that we thought it had when we committed in the first place.

Maybe that's because you've got a client that is no longer responsive or cooperative. Maybe it's because something about the opposing counsel or party has gone completely off the rails. Maybe it's because you picked up a tangential piece of work that wasn't part of your core expertise. Whatever it is, you have permission to let it go.

And that's not to say you maybe don't still have some obligation to the client to tidy things up, to try to put a bow on it, to get them to a place where you're not actually harming them by no longer taking this case. And that could be withdrawing if it's in the context of litigation or just sort of abandoning things if it's in the context of transactional work. You want to give them all of your work product. You want to guide them to what their next step is, but it doesn't have to be with you.

And so another way to close the closable in your law practice is to find those cases or other commitments. It could be projects, it could be any number of things inside of your law practice. If it no longer sparks joy, if you dread working on it, if it just feels like a chore all of the time, then let's find ways to get rid of it. Maybe we're going to drop it entirely. If it's a back office function, maybe that's where we're going to find an outsourcing partner of some sort, or maybe we're just going to do a lot less of it. Whatever it is, we still want to find space, we want to create capacity, and one of the best ways to do it is to get rid of certain types of work that aren't working for you.

And obviously I've been describing it just now as thinking of it on a matter by matter or a project by project basis, but one of my favorite things to do, I've probably said this before, is to talk people into abandoning entire practice areas. I recently worked with a family law firm that had given up adoptions and even eventually gave up post-divorce types of work. Those

Ep #97: Creating Space Within Your Law Practice: Finding Momentum Without Overwhelm

are things that didn't really spark joy for them in the context of their zone of expertise.

I'm working with an estate planning and a probate lawyer that is giving up guardianships. That's not to say that guardianships aren't important. I think they are, but in the world of things that this lawyer is good at doing, guardianships were becoming a distraction and not a core focus.

And so getting rid of that practice area and hopefully there's some other attorney in their region that's like, you know what? I don't actually love the estate planning, guardianships is what I want to focus on. And the world will balance out that way, but it's not necessarily the job of an individual attorney or an individual law firm to solve all of the problems for all of the people even if it technically falls within your practice area. You can say no.

So those are the first really the main two things in terms of creating space. Number one is close the closable in terms of getting done those things that are closest to done. And number two is getting rid of those things that you don't actually care whether they get done or not or you don't want to be responsible for getting them done because it's not the kind of work that you really feel like you and your team should be doing.

And I don't know how many cases or work items you'll be able to close for yourselves by doing those two things, right? It really depends on your particular practice, but I do know that there are some. Everybody has some.

And whether you reduce the total volume of your commitments by 5%, by 10%, maybe 15 to 20%, that would be great. The next thing that I think is important in terms of once you've created space is that you need to preserve that space. You need to come up with some better guardrails for how you're going to utilize that capacity.

Ep #97: Creating Space Within Your Law Practice: Finding Momentum Without Overwhelm

So, circling back again to things I talked about at the top of this episode, what qualifies for your work, right? What are your quality standards for letting new work in? What is the objective measure of your capacity, right? What is your concurrent work limit, what we would call a whip limit, work in process limit, in the Kanban world?

How do we say that as a team we have a maximum case count of 50 units of whatever type of work that we do or maybe a weighted case count where some cases count for more than others because of their complexity or the emotional energy they take, whatever it happens to be. Sometimes you might have a scoring system where a particular type of case might qualify as a two or a three and you're going to say, yeah, I'm going to have a weighted limit of 50, but it's going to be made up with different size cases.

Another way of thinking of that is actually back in the context of this quality standard and what I've referred to as the definition of ready. So what are all of the things that must be true or at least accounted for before I will even begin work on a new case on a new matter that comes in? And one of the things on that definition of ready is this matter actually meets our quality standard, right? It qualifies for the expertise and the capacity of this law practice.

Number two on that definition of ready and this is the one that is really easy for people to overlook is we actually have capacity to do it. We've got the block of time and our ability to give our focused attention on this piece of work so that we can move it through to its resolution as smoothly and predictably as possible, ultimately as quickly as possible. But as you've heard me say before, I like smooth and predictable. The speed will come.

So I'm going to leave you with that, right as we hit this holiday season or enter this holiday season, this more contemplative season, right, this slower season where the world is a little bit darker again in the northern hemisphere. I want you to really think about number one, what is your

Ep #97: Creating Space Within Your Law Practice: Finding Momentum Without Overwhelm

capacity that you have this finite capacity and try to come up with an honest reckoning with what that capacity truly is.

Number two, I want you to think about how can I assess my existing commitments that are taking up my and my team's capacity and try to move the level of those commitments from the roiling boil that is so common in law practice down to the gentle simmer, right, where you're working comfortably within the capacity of your system. We're doing that number one by doing close the closable, getting things done if they can be done, and then dropping them if they no longer qualify for our finite capacity.

And then number three, I want you to protect that capacity once you've found it, right? We've created some space and now we need to hold it open as much as we can. We want to have some slack in our system. We don't want to be 100% utilized. That's no way to live your life. So improving those quality standards around what qualifies for your work and then putting some objective limits, right, a work in process limit, a concurrent case count limit, a weighted case count limit, whatever it is to make sure that we're not taking on more than we can reasonably handle.

Once you do that by the way, not to introduce another concept this late in the episode, but what winds up happening is by creating this space and holding it open, it now gives us the ability to do more of the improvement work. It gives us the ability to see things more clearly without that sense of urgency, without these emergency signals kind of redlining our brains.

And that's going to help you not only see but also have some time and energy to do the systems improvement work, whether that is improving tools and templates, whether that's doing some training, whether that is otherwise building the systems and the capabilities inside of your firm. You can't do that when the bathtub is overflowing, right?

You can't do that when the pot of water is boiling over. We've got to turn things down, we've got to get inside of our capacity, and then we can have

Ep #97: Creating Space Within Your Law Practice: Finding Momentum Without Overwhelm

the space to do that deeper work, and that's going to create a flywheel or a snowball effect where the more you commit to doing the improvement work, the more you are now building capacity as opposed to just using it.

And I'm truly going to just leave it there for now. So, as always, this podcast gets production support from the fantastic team at Digital Freedom Productions, and our theme music is Hello by Lunara. Thanks for listening, and I will catch you again next week.