Ep #36: What To Do When I’m the Bottleneck with Melissa Shanahan and Ben Hudson

Full Episode Transcript

With Your Host

John E. Grant

The past few weeks I've been doing episodes on some of the more counterintuitive aspects of efficiency and improving law firm workflows. And one of the things that I think is challenging for people, probably because it cuts against human nature is the idea that adding capacity to your law practice, whether it's hiring new team members or outsourcing some work or using AI to help you with certain things, doesn't always add up to overall workflow improvement.

And I think this can be really frustrating for people because when we make these changes, we have the best of intentions and obviously an expectation that the sometimes significant investment and effort we put into beefing up our team will create a clear benefit, whether that's making more money for the firm or making things a little less crazy for you and your team. And when we don't get that benefit, when the work is still getting stuck even after we've added capacity, it can be really discouraging, and not to mention, a little expensive.

So, as I was thinking about this problem, I realized that I've actually already been part of a really good conversation that illustrates both the frustration of investing in capacity improvements that don't solve your problem. As well as the relief and excitement that comes from finally starting to crack it.

And that conversation was an episode of my friend Melissa Shanahan's *Law Firm Owner Podcast*, episode 207. Where she interviewed me but mostly talked with our mutual client, Ben Hudson about how he used his Kanban board and other tools from the Kanban method to finally crack the code on how he can best deploy his team members and resources in a really targeted way that helped him address his actual workflow bottleneck. And get work moving way more smoothly and efficiently in his law practice.

Now, a lot of my listeners know Melissa already. If you've been listening a while, you'll know that I interviewed her in episode 25 of this podcast about her Monday map and Friday wrap process. And I definitely recommend checking out her *Law Firm Owner Podcast*. And since I'm about to play most of episode 207, I'll put in a plug for episode 204, where Melissa and I talk about leveling up the client experience. And you're going to hear Ben introduce himself in a minute, so I won't go into his bio and background.

Because this interview runs a little longer than my normal episode, I'm going to skip my intro music this week and get straight to the interview. You're going to want to listen to the whole thing though, because Ben's got some really great insights that I think will resonate with you. You are going to hear me cut in a couple of times to add context to provide an update, and you'll be able to tell it's current me because my podcasting microphone today is a lot better than the one I was using during Melissa's interview. Alright, enough backstory onto the show.

Melissa: So, first of all, will you just say a little bit about who you are and what you do? I said who you are and where you are. And then once you do a bit of an intro, maybe just start in on how you think about the work with John and the work inside of Velocity Work and how they are complementary.

Ben: Sure. I am a lawyer in Calgary, Alberta, Canada. I do business tax, corporate commercial, some estate planning as well. That's what my practice consists of. I started my career at a couple of big national and now international law firms before leaving to start my own firm in 2016. So, it's been seven and a half years now, almost, started with zero clients, built it from the ground up. And so, a lot of the work of that has been building systems, but I didn't want a just out-of-the-box solution.

So, a lot of it has been finding things that fit with my values and how I feel that the practice of law should happen, both for the clients and for lawyers. And so that's really how I got on to both of you guys through different channels. So, the question of how they're complimentary, maybe I should start with how I actually think they're similar, because I do think there are a lot of similarities.

One thing that I get working with both of you is you're both trying to tackle the problem of focus and attention, just as an overall principle, avoiding distractions, avoiding interruptions. You might use different words, but that's, I think, a principle that you're both big on, using metrics and data to drive decision making. So, facts, not feelings if I can say that without being sued.

Melissa: Totally.

Ben: Is that patented, trademarked? So, you need evidence, not emotions or metrics, not mood. I don't know.

Melissa: No, it's free for all, anybody can use it. Well, can I ask you one question? It might be good for listeners to have insight into your brain. How would you describe being a client of Velocity Work and how would you describe being a client of John's, the work that you do in each?

Ben: So, the work with Velocity Work and Mastery Group, a lot of that deals with how I operate as a business owner. So, the Monday Map, Friday Wrap process that most of your listeners would be familiar with. It deals primarily with how I actually operate. And if you know the term, time boxing, that's a lot of what that is. And then there's also the strategic planning where you're setting quarterly rocks and goals for the firm.

The work with John is more of the flow of work for the firm as a whole. That's the way I view it, which also then dictates the work that I'm doing as the owner and as a piece of the firm, but I find that there's a bit more of a team flow focus to the stuff that I do with John.

Mellisa: Yeah, okay.

Ben: Does that make sense?

Melissa: It makes absolute sense. And I would imagine, I don't remember one of your rocks off the top of my head. But I would imagine in the past you've had a rock which is a key quarterly priority. You've had a quarterly priority that you could use John to fulfill, is that correct?

Ben: Yes. And the work that I do with John, actually helps inform what my rocks should be.

Melissa: Oh yeah.

Ben: This has been one of the biggest realizations over the last few months and it comes from the idea of bottleneck theory and that theory of constraints. And I don't know how much detail you guys went into in the last episode because it hasn't aired yet, but the episode with John. But the idea of Kanban, which is making the work visible and on a very, very basic level, there are cards that represent the work and they flow through columns on a left to right direction.

And that's just the most basic description I think I could come up with of Kanban, but what you can notice one of the things I love about it is, you just get a visual snapshot of what's going on in my practice at any given time. And what you can start to see is where the bottlenecks are, what's the column that's filling up? You can see that visually and then John and I have been working on actually looking at the numbers behind that as well. So, we can say, "Cards are getting stuck in this column."

Right now, I'll tell you the column that they've been getting stuck in is, we call it QC quality check, which is my paralegal or my assistant or my associate, well, articling student, which is a Canadian thing. So, I've got a guy who's fresh out of law school or a year out of law school now and I've got to review his work before it goes out. So, I'm reviewing a lot of this work and that's where things were getting plugged up and slowing things down. So that's the bottleneck.

And the idea is there's only one bottleneck at any given time. And if I work on anything else in my business that doesn't fix the bottleneck, I improve some other part of the system. It's not actually going to improve my business because I've still got the bottleneck, and in fact the biggest revelation I've had is, if I improve the wrong thing, it can actually make the bottleneck worse. And can I give an example?

Melissa: I would love one. I was going to ask for one.

Ben: Yeah, okay. So, I'm the bottleneck. Last year I hired the junior that I have right now. There was another person who I'd interviewed a while back, she went on, worked somewhere else. Then she came back to me and said, "You know what? I actually want to work with you." And I thought, yeah, this is great. She's great. She's good attitude. Why not add another great person to the team? She was very junior and I ended up having to let her go a few months ago.

And now with all of this data that I have in looking at the work I've done with John, I can tell you exactly why. And I could have predicted that it wasn't going to work because adding somebody who's very junior, who does work ahead of the bottleneck. All that does then is increase my bottleneck of the quality check that I'm doing.

Melissa: The amount of time that you have to put into the quality checks?

Ben: Right. And so, adding this person to my team actually did not increase production of the team overall. It actually decreased production because it worsened the bottleneck.

Melissa: So, I just want to clarify, I just want to make sure I understand it. So basically, it's not that I'm not trying, but I feel the way I was going to say this just felt too crude, but you can reword this if you want to. So basically, she wasn't good enough at the job ahead of time. And so then with the work she was doing, so then when you come in to do the checks, there is a lot of fixes involved, that you otherwise, if somebody was better at the front end, you wouldn't have that friction during the quality checks. Is that correct?

Ben: Or more senior, I wouldn't say better. I'd say somebody more senior, John.

Melissa: Okay, more experienced.

John: Yeah, I'm going to chime in. And it's interesting because I think that's something I run into a lot with lawyers is, if I just had a better person, I can't find the right fit. And one of the things out of …

Melissa: I do feel bad about saying that. I was just trying to get a point out. If I would have thought better, I would have said that, better. Yes, I didn't mean that she sucked, necessarily.

Ben: If you're listening, you're good. She knows she was good. She just wasn't experienced enough because she was maybe, I think, a year ahead of the person that I have now. So not far enough, where she could take some of that quality check load off of my plate.

Melissa: Right. Totally.

John: Or one of the other things that I actually think, Ben, we're working on this within your practice now, which is it could be that if you had hired a person that was more senior. And one of the things that you and I talked about was maybe finding an attorney that you know outside of your jurisdiction, who might even be able to help offload some of the quality check work that is right now on your plate. And I think we're still holding that as an option, but it's not the path you're doing right now.

But the other thing that we've been thinking about is how to improve your quality standards upstream of the quality check. So that you can be more certain that when work hits that point, it is of sufficient quality and it doesn't take up as much of your time. And I think I've started again, trying to be a little bit more generous and politically correct. I use the term newbie proofing your practice.

And it's about using your existing resources to not just do the work, but really build systems and standards so that the work gets done consistently every time. And also documented in a way that a new person can come in and relatively seamlessly, pick up a task as it moves through. So, one of the things that's really big in a lot of the areas of study that I focus on, and lean and W. Edwards Deming and all these things is that it usually isn't the person, it's usually the system.

So, when you're having problems, if you get the system built in the right way, then you can create all kinds of redundancies in your practice, because different people can go occupy different roles as needed. If you're really dependent on one person being the 'expert' in a particular thing, you're going to have point source failure. You will generate bottlenecks in that particular part of your process. And it's very common and I think Ben is experiencing this, it's really common for firm owners to be that expert, to be that point source failure.

Melissa: Yeah, absolutely.

Ben: So, when I bring it back to rocks and setting my rocks for the quarter, if I'm looking at this and going, "You know what? My rock, I'm going to post a blog post every day and do this in the TikTok video," whatever it is, if it's market. But my problem, my bottleneck is actually down the road later on, it's not going to actually help anything and it makes a bigger problem. So, it's not just, if you have somebody who's maybe too junior, it's also anything that's really upstream of that bottleneck.

And so, the thing that you hear all the time or that I see all the time are, we help law firms get leads. We help you get new clients. And in my experience, that's not the problem. There's enough people who have legal issues. There's enough people who are actually calling, there's enough of that. It's the issue of actually getting people through the workflow, that cycle time. Get it in and get it done.

Melissa: This is great. And also, I really like, it's not terminology that I use inside of Velocity Work, but it would probably be helpful if I just mentioned it so that people can think about upstream versus downstream. That is a really helpful way to think about it. I don't think about it nearly as well as you, John. The instances that come up a lot are, someone who has grown, I could think of a couple of clients, they grew from 300,000 to a million plus in a year/year and a half and their rocks are marketing rocks.

I'm like "No, you need to get the house in order. You need to get the wheels back on the bus." That's about the extent of how I think about, which you are so much more adept with on a granular level, really what to tend to first. And you help people identify what to tend to first, I would imagine, correct?

John: I sure try, yeah. And it's interesting for me to think a little bit about Ben's journey because I think you, Ben, and remind me if I'm missing the timing, but I think you built your first online Kanban board over a year ago or just about a year ago.

Ben: Well, I don't know if you know this. The first Kanban board that I built without you, we were having an issue at the time. This is four or five years ago, and we were trying to manage this and we identified this as an issue. We need to make this work visible so that we can see the workflow. So, we have transparency, so everyone can see what stage this is at.

And we were using at the time, for intake, Clio Grow and we use a different system now, but what we did is we actually created, there's a hired pipeline, we created stages in there. So that once things were hired, we were flowing it through at least the stages, so it's not nearly as detailed as what you and I did a year ago. But we appreciated the value of making that visible and being able to see the work and then you and I built a more robust one. You helped me build one, I want to say last January or February of 2022.

John: I think that's right, yeah. No, and that's interesting. So, okay, I'm not going to go, too, too deep on this, even though I probably can. So, stop me if I'm taking too much line. But there are a lot of tools and Clio Grow's a great example that uses a Kanban board interface. And that Kanban board interface is great for entering what I think of as sort of level one Kanban, which is making the work visible and has been talked about.

There's incredible power for those of us that work in knowledge work environments and you never really see the work that you do. It's either part of your devices or between your ears. And so, humans that have visual capabilities being visual creatures, if you can make that work visible, your brain just processes it differently. And I think it gives you a level of understanding about your practice that it's hard to get from lists and reports.

That said, that sort of level one Kanban doesn't get you very far in the Kanban methodology. So that first stage of making work visible, incredibly powerful, but it's just the beginning. And I think that's what Ben's realizing now that we've actually dived into some of these other pieces. And it's been really fun working with Ben because he's just getting it and he really understands it and using the data. So, Ben's using a tool called Kanban Zone.

Kanban Zone is one of two of my sort of most recommended tools because they're built by people that are actually coaches and consultants and practitioners in the world of agile management. And so, my whole thing is taking these learnings from non-legal disciplines and trying to adapt them and adopt them so that they make sense for legal systems. And we have a lot of legal tools and again, Clio Grow, I think Lexicate has got a Kanban interface. I know NetDocuments has a Kanban interface. There's Lawcus, there's legalboards.io. There's a whole laundry list.

I mean, chances are, if you're listening to this podcast, you have a Kanban interface somewhere. And again, maybe it's not a legal one. Maybe it's Trello. Maybe it's Asana. Maybe it's Monday. Maybe it's Microsoft Planner. Almost all of those tools that I just rattled off, however, don't get you much further than that level one Kanban experience.

Hey, there, two quick things. Number one, for those of you going to CLIOCON this year, I have a speaking slot on Tuesday, October 8th at three o'clock where I'm going to talk about what to do if you are using one of those more basic Kanban tools I just rattled off, including the new Clio stages. And how you can push that tool into some of the other more advanced techniques of the Kanban methodology. There are still passes available at a slightly discounted rate if you use the code, actfast, all one word, when you sign up for the conference at the CLIOCON website.

Second, I'm even more bullish on Kanban Zone today than I was when I recorded this episode. I've been working with their team over the past year plus to develop not only some ready to use board templates to get you started, but also a lot of other features and functionality that have been really useful for my law firm clients. I also offer a free setup call to help you get oriented with the tool and the method. So, if you want to take advantage of that, you can go to Kanbanzone.com\aa to get registered with my link.

And that's also going to give you a 60 day free trial to help you get up and running with the software. that's Kanbanzone.com\aa for Agile Attorney. Okay, back to Melissa and Ben.

And the things that we start doing and with Ben, I think the next thing that we did, once we'd really started working and you were attending these office hours that I held the beginning of 2023. Establishing queues was one of the things we did early on or that you did before we even started formally working together again. Which is to say that instead of assigning work to a person, I sometimes refer to them as desks. So, we've got a writing desk or a drafting desk. We've got a communications desk. We've got a quality assurance desk.

And you don't necessarily know when the need for that work hits that queue. You just know that it's there. And then it allows Ben in the role of the firm manager, firm owner, sort of process director to say, "It looks like there's a lot of work in this queue. We need to apply some resources to it." Now, who are the resources on our team capable of doing that work and how do we move it out that way?

The other thing that we started to do was apply WIP limits and WIP is an initialism, it stands for work in progress. And it basically says that we're going to limit the number of balls that we're juggling at any one time at any particular phase of our process. And I think those two things initially were really helpful in terms of getting a handle on the overwhelm.

One of the things that I would maybe say, and Melissa, you probably run into this with other Velocity Work members is, it's really easy for that firm that's gone from 300,000 to a million. They're probably feeling a significant degree of overwhelm of just, oh my gosh, this is what I wanted, but I'm not sure what I've gotten myself into. And so, with Ben and with other clients that I have, we use the Kanban board almost as a sense making tool, to help us really make better sense of what the processes are and what the workflows look like and what the work within it looks like.

Ben: And I think anybody who works with you, Melissa, is at least somewhat familiar with the concept of WIP, at least in their own personal world. Because one of the things that you've said is, ruthlessly weed out your list. You do your brain download, then you're putting it into your calendar. Then you're deleting what you can, or you're delegating it, and you're ruthless in basically setting a personal WIP limit is how I would describe that using John's terms.

And what John is doing is setting some WIP limits for certain stages of work, where we're not going to move a new thing until, I'll use the quality check, the QC column again, but we're not going to move something into QC until we've actually cleared out everything that's already in that column already. So, you're not allowed to go work on that one that's upstream of QC until Ben has cleared out everything that's in QC.

And this is another area where I feel it's very complementary, what John does and what you do. Because when you're doing your Monday map, one of the things I'm doing is, I'm setting priorities. And so how do I do that? How do I look at my brain download, my list of everything that I have to do and set a priority? We have certain policies, explicit policies with our board of work that says, if something's further along, you're starting with that. If something's higher value, you're going to start with that and just these rules.

And you can look at the board and say, "Okay, that is what I'm working on. That is my priority. That's the first thing I'm doing on Monday morning."

Melissa: So, I want to ask about, if you could just name a few workflows. I mean, I'm sure there's continuous tweaking and improvement as time goes on, but that you've implemented, that now you feel some ease in a way that you haven't prior. You mentioned one for the QC, well, I guess that's a part of a workflow, a bigger workflow.

John: Yeah, let me project and then Ben, you can correct me if I'm wrong. But I think one of the fascinating things, I mean Ben rattled off, you've got three or four different practice areas. And some of them are big, pretty complex projects, some of them are relatively light touch, quick projects. They're all following the same work flow and that's what's fascinating. So, there's not multiple workflows, we've kept them pretty high level so that there's an intake phase.

I don't have Ben's board in front of me, but there's an intake phase, there's sort of an assessment and research and sense making phase. There is usually an initial drafting phase. Then there's a quality control. Then there's sort of negotiation agreement, whether it's with the client or with a third party. And then there's an execution finalization. And then I think an internal closeout is the last one we have, which is we want to actually get the work all the way to done, done.

And for transactional practices, those columns and maybe not those exact ones and different firms that I work with call them different things, but the high level workflow is pretty identical.

Melissa: Okay. I did not expect you to say that. So basically, you have one workflow for your entire practice. Is that correct, Ben?

Ben: That's correct.

Melissa: So, whether it's an estate plan, whether it's a transaction, it doesn't matter. Anything that you would provide in terms of a service to a client, goes to the same workflow.

Beb: Yeah. And this is something I say with my team even before I did any work with John, I'm big on systems and processes. And any time you can just look at everything kind of bigger picture and categorize it and actually see, well, this thing over here is actually the same as over here. So why don't we just use the same process? And then you can just streamline it and you're not having to go, well, this file X is special and has this. No, it's the same.

We need to stop, as lawyers, we need to stop fooling ourselves and be like, "Oh, well my practice is different or, well this file, it has this little thing that's different." Yeah, it does, but overall, it's the same general process almost all the time. Sometimes there is a different fork in the road, but there's only a couple of major forks. Litigation might go to questioning or might go all the way to trial. There's some different forks, but you know what those are.

And so maybe there's a file that skips a column of our workflow, sometimes that happens. We don't always have negotiations with opposing counsel, but there's definitely going to be client review on every single file. And so generally it does follow that same path.

John: Breaking in just to clarify here that having everything on a single workflow was the right call for where Ben and his team were at the time. But it isn't the only way to do things. I've got several clients who work off a single board and I've got others who use multiple boards to depict different practice areas and it works well for them. So, take what you can from Ben's description here, but know that there are different valid ways to approach board design. Alright, back to Ben and Melissa.

Melissa: Okay. Oh my gosh, I'm so glad we're talking about this. Now I feel all the question marks popping up. So, there's one high level workflow because then you have systems and processes that support the steps to push each type of work through the workflow, correct?

John: Exactly. So, when something hits the drafting phase, I almost think of it in terms of, okay, which recipe card are we going to pull out of the box. So, we know we're in the drafting phase, but if it's an estate plan, we're going to go to the estate planning part of the recipe book. If it's corporate formation, then the documents that we're drafting to handle corporate formation are completely different than those for estate planning. The process, the workflow is the same, but the recipes are different.

And so, there's the high level policies that govern all of the work in Ben's practice and that doesn't mean that we can't have the nuance and the detail that we need in order to deliver different types, different flavors of work. The advantage, just to continue that. So, the advantage to having all the work on the same board is that it lets Ben and his team really quickly assess and prioritize what are we going to work on next.

And one of the things I talk about with my clients all the time is, there is a transition that happens when you start to use the Kanban methodology. And so, there's one thing about using the board and the board helps you with sense making, but for that level one board, most of the time what you're doing is telling the board what the team is working on. When you flip into a higher level, a level two, a level three, and I'm making these levels up, these are my arbitrary levels.

But when you flip into a slightly higher level, you transition from telling the board what you're going to be doing to the board telling you what you should be doing. And I think that is in some ways really liberating, because it really sort of takes the active decision making and all the information that you have to carry in your head as a lawyer, as a business owner, about what commitments did I make and what deadlines are coming up. And once you get the board configured the right way and it's a constant evolution.

It's not like you're going to nail it right out of the chute, but more and more, you're able to just offload that entire set of worries and fears and considerations into the system. And the system tells you, yeah, this is a type of work that has high consequences if you miss a deadline, and this is the deadline. Therefore, it's going to follow this prioritization structure, which is different from an estate plan, which aside from an urgency because someone might be on a deathbed or something. Doesn't usually have a high consequence if you don't get it done the day that you said it was getting done.

And so, the question is, how do you prioritize those different, in the Kanban world we call them work item types, which is a little technical, but those different work item types. So that your team is making sure that work of different types is continuously flowing.

Ben: And one of the things, I think, maybe if that's level three, level four is where your team also knows those policies and they're just pulling cards because they know the priorities. Because Kanban is really supposed to be a pull system. So, when I started out, I still sometimes feel like this, but I was pushing the work on my staff and my team saying, "Okay, you're going to work on this." And I'm doing this based on the principles of the board. But the goal is to get to a point where they can just look at it and say, "Okay, I've got these priorities, we've got this work here, I'm going to pull that one."

And they shouldn't really even have to run that by me. I mean, we have a quick daily stand up, but they should be able to tell, okay, this is priority based on our prioritization rules. And that's amazing as a business owner and as the project manager of the firm to have that where then people are able to just pull their own work, it's great. And I can see that they're pulling it because it's visible again. So, the transparency of it is great. I don't have to go to anybody and say, "Is this done? Where is this at?" It's in the card.

Those tasks, the subtasks, the recipe cards that John's talking about, we build that into the card on the board. So, they will have different task lists within them. We put all our comments in there so we're not emailing the team. Email is one of the things that I can't stand. So, we have no internal emails because we're communicating through the cards and then it lives in there. The comments are in there that says, I talked to the client today and this is what they said.

The status updates are in the card, it's all transparent. So as the person who is then managing the overall work, it's fantastic. It takes a lot of that burden off of me.

Melissa: So, all of your processes are in Kanban Zone, is that right?

Ben: Our task lists are in there. We use Tetra to have our processes. So, we have an operations manual.

Melissa: So do you sometimes link, the tasks are in there, but let's say there's a task that actually does have seven steps, someone can reference?

Ben: All the seven steps are in there. So, we break it down to the smallest step that we can in there, but if they need to read the document on, this is how we, I don't know, I'm trying to think of an example, but this is the process for drafting unanimous shareholder agreement. We will have every step listed out. But if they want the written explanation, course description, syllabus or whatever, they can still go to Tetra, go to the operations manual that has more commentary on it, but all of the tasks and subtasks are in there.

And we found if we leave any of those out, they sometimes get skipped, or then I'm back in that situation where I go, "Was this done? Did you A, B, C and D?"

John: One more quick break in. I've got a lot of clients who already use knowledge management tools like Tetra or getguru.com and they're great. But for clients that don't already have a knowledge management system set up, my practice these days is to actually use Kanban Zone to set up card templates and checklist templates and other information that kind of serves as a knowledge management solution.

There's some really clever ways of using boards and cards to track things that aren't necessarily directly part of a workflow. And that's another one of the reasons I really like Kanban Zone as a tool. Alright, back to the show.

Let me give a bit of color. So, I said before we came in that I was going to be like a pop up video, so, for folks that are old enough to remember VH1 in the day. So, it's really fascinating to me as I've sort of watched different teams with this because what it feels like, and even the way that some of the Kanban tools talk about it is there's the card, which is the project. And then there are the subtasks, which are checklist items.

And how most law practices operate is, they will assign subtasks to people and think that's so and so's job to do all these subtasks. And one of the things that Ben's done and other teams have done is, these are the things that have to happen. These are things that have to be true or accounted for in order for this particular, again, corporate formation to be a high quality formation or an adequate quality formation. So those subtasks aren't really a to-do list. What they really are is a quality control checklist.

And so, what Ben just said is that if all of the subtasks aren't part of the card template and so there's card templates, one for wills and one for formations. And I think getting that template library is part of the evolution of a more mature Kanban system. But those subtasks in the template really are part of the standardization. So, the work is getting done the same way every time to this standard.

So, by the time it hits Ben at the quality control desk, he can check and see, okay, if all of the quality items are ticked off then I can be reasonably sure, I'm still going to go read it. He still has to do the actual review, but it sort of sets the stage for him. And a lot of this comes from the Atul Gawande book, *The Checklist Manifesto*. And I will often, if I'm giving a talk, I'll ask people, "Hey, without looking it up, can you tell me what the subtitle of that book is?" And the response I almost always get is, "Getting Things Done." And it's not.

The subtitle of *The Checklist Manifesto* is Getting Things Right. And it's a book about quality control. Checklists are best when they're used for quality control. They function as good to-do lists, but that's not their primary purpose. Their primary purpose is quality control checks.

Melissa: Okay, so I'm just thinking and I don't know if listeners have this question or not. So, you have the steps in there. So as an example of what's in Tetra is maybe the Loom videos that go with it and the images and screenshots. None of that is in these Kanban boards, the steps are listed. If you need help with understanding how to complete one of those steps, you can go to your book of processes.

Ben: So, there might be a thing that says, in this step for a probate file, now you have to courier the probate application to court. And that's a checklist. But if you're like, "Well, I don't know how to courier that to court." You go to Tetra and it tells you how to, here's how you actually send the courier and has that level of detail, but it's just one short item on the card.

Melissa: Yeah. And so, when your team is working, I mean, do you guys each have a screen up all day or at the beginning of the day that everybody sees, everybody looks at? How is this integrated into your practice?

Ben: So, we do a daily stand up like I mentioned. We do 15 minutes in the morning. Everybody gets together. Our three questions are, did you get done your priorities from yesterday? What are your priorities today and what do you need from the team to get those done? And I've kind of added a fourth one recently, which is, if you didn't get done your priorities from yesterday, why not?

Melissa: Yeah, this is my man.

Ben: And that's the newer one.

Melissa: This is what I'm talking about, yeah.

Ben: Why are we getting blocked? Or if you've said you were going to get this done and you didn't get it done, why didn't you get it done?

Melissa: Because it's insight into, I'm imagining, and I know you well enough to know that question, you never think that the answer is going to be because they're just not doing their job. They are experiencing real barriers that you want to be privy to so that you can understand how to maybe improve X, Y, Z.

Ben: Yeah. I can already see as we're fixing this QC bottleneck, I could see that the next bottleneck is client review, client homework, that's the one. And we can already predict that's what it is as we fix this. So that's our next focus. And we've had some things this week where one of my team members said, "Well, the clients aren't getting back to me. That's why I didn't get it done, I needed this." And then we can have a discussion about how do you properly assign client homework and set deadlines with the client. And how do we then make that less of a problem?

It's not, you're in trouble because you didn't get this done. It's, how do we improve our systems so that you're not blocked when you get to those steps and you're able to actually get it done. And that's another similarity, not to jump around too much, but another similarity I feel between the two systems, working with Mastery Group and Velocity Work and working with Kanban is, I've really shifted the idea of what productivity is.

It's not, did I get every single thing on my to-do list done today? It's not, did I stuff as much as I could in these eight to ten hours that I was in the office today? It's, did I get done what I needed to get done, the priorities that I said I was going to work on? Did I do what I said I was going to do today? And that is now my definition of productivity and success on a daily basis and I feel that matches between what both of you teach.

Melissa: Will you go back one minute, though? So, you have a stand up, so does everybody already look at the board before the stand up?

Ben: Yes.

Melissa: Do you need it up all day? Or I'm just wondering what it really looks like in your practice.

Ben: We have it up because you're updating it. So, as I finish something, I go, I had the call with this client, I'm checking something off the list. I may be moving it to a new column. So, I do have it up in a tab. I don't necessarily have it right in front of my face, but it needs to be up to date so everybody knows what's going on. So, everybody does look at the board. We don't do our daily stand up the second everybody walks in. We give everybody some time to get settled, go over their board, figure things out, update anything that maybe they've missed updating the day before.

And also, they pick their priorities. We're onto that pull system now. We're working to get there, the pull system that I mentioned, where they choose their own priorities based on the rules that we've set and what's on the board.

Melissa: Okay, What were you going to say, John?

John: Two things and I'll actually work my original thought into this one. That pull system is key. And I'm actually hearing that there are two different sort of intertwined pull systems that Ben's talking about. One of them is the pull system for the work, for the actual client deliverables. And one of the things I talk about, I'm increasingly using a debt metaphor to talk about. So, we think about, we engage the client and that pushes work into our system. And then we have to work the board from left to right through our systems because that's how the work flows.

But I encourage people to work the board from right to left, which is to say those items on the board that are closest to done should be a higher priority than those items that just got started.

Melissa: This is like Dave Ramsey's debt snowball, little ones first, the ones are closest on first and then you work on the farther.

Ben: Do you remember the highway metaphor, Melissa, that we talked about?

Melissa: I was going to bring it up.

Ben: I got that from John.

Melissa: I remembered that. That's why I was going to bring it up on this call because the group that we were with when you were talking, they were really fascinated by what you said. So maybe that ties in here, is that why you brought it up now?

Ben: Yeah, I think it does tie in here because if you were on the freeway, you know that if there's too many cars on the freeway, it's going to take you longer to get where you need to go. And so, there are metered freeways. I don't know if there are any here in Canada, but there are in the US where you can't just get onto the freeway, because it's already too full. So, the way to free that up is, get some cars to take the exit. And that means you finish the file, you get them out of there.

And the phrase that I say to my staff is, finish more to start more, I think the actual phrase might be, start less to finish more, John.

John: Start less to finish more, yeah, stop shoving work in there and actually get some stuff done. But no, they both work, I think that's right. And the way you solve a traffic jam isn't by pushing harder on the last car in the backup. It's by trying to remove the blockages that are up at the front. That's how you resolve a traffic jam.

The debt metaphor that I was going to say is that when you sign that engagement agreement with your client, they're basically saying, yeah, I owe you money. But you're saying to them, yeah, I owe you work. You've created a deliverable debt for yourself and for your team. And the longer the debt stays open in your system, it has a carrying cost. Your client satisfaction is going to go down. They don't pay you to enjoy the experience of having a legal problem. That's not a thing. They want it done. They want it accomplished. They want to move on with whatever it is.

And again, I haven't perfected this metaphor yet, so I'm workshopping it with you, two, and all the listeners. But this idea that we owe them something, and the longer it takes us to deliver that something sort of the more costly it is. Whether it's in terms of our own investment or in terms of a diminishment of the client experience.

Ben: I mean, it takes up space in your brain. If there's work that's been there and it's been neglected, I'm thinking, oh, man, I've got to get to this. I know I've got to get that done, this thing that's been sitting there forever. And maybe there's no deadline and so it's easy to think, it doesn't matter, I'll do these other things first, but it's taking up mental space.

And to phrase the honest reckoning with capacity is John's phrase that we mentioned before, and I wanted to bring up, which is, your capacity is finite. Your firm's capacity is finite, and you have to be honest about it. And when you're realistic about it, you have to then start making choices about priorities. So, when I'm doing my Monday map it's, what am I actually going to do? I have to be realistic and there's not enough time in the week to fit everything from a to-do list onto my Monday map. So how am I going to prioritize that and what am I going to do? And that's where bringing in these rules and these policies about setting priorities from the Kanban system, I feel is really complementary to what I'm doing with Monday map.

John: Yeah, but it sounds like, I mean my flipside to the honest reckoning with capacity is the brutal assessment of priority. And it is, it's brutal having to drop things, having to decide, I'm not going to do that, it's hard. And I think it's especially hard for lawyers who tend to be really high functioning, high capacity folks, capacity is still finite, no matter what.

Melissa: And I mean play that all the way to the end people who, I wish I could just think of the same language you just used, but people who aren't really willing to assess being brutally honest and assessing. It's impossible anyway, you might as well just take the time to assess it so that you can know it ahead of time instead of magical thinking the whole way through.

Ben: Putting your head in the sand, it still exists.

Melissa: Yeah, exactly. This is awesome. I had no idea that there is one, basically the thing that the two of you have been working on together is one, workflow. Am I correct in that?

John: Yeah, it is one big board.

Ben: Yeah, I'll show it to you sometime, Melissa.

Melissa: Yeah, I would love to see it. That's really cool.

Ben: I'll walk you through it.

John: It's another reason that I love the two tools that I really like is because they're just so much more flexible with their design of boards. And with again, the more simple tools, I won't rattle them off again, but they just don't quite have the tools you need to design a board that is going to accommodate different types of work, the same way that Kanban Zone and Kanbanize are able to do. And there's some others, those are just the two I use the most.

Ben: I think if you're doing baby steps and you're just starting out for the first time, the thing to measure is the number of cases, matters, whatever you call it, you're bringing in versus how many you're getting finished. And Melissa, I actually started tracking this when I was working with you before I was working with John, track the number of files you close, you've got to track that.

So, using the traffic jam analogy we were seeing that we were bringing in more files and we have a number per day that were coming in. We could see the statistics now versus how many were going out. And so, you can predict, we are going to have a traffic jam if this continues.

Melissa: Right. And you can also, I haven't totally thought this through within your scenario, but there's some private clients I work with, net cases is what we call it. So, the net case number is indicative of when hiring needs to happen. And I mean you can use it to make decisions, it depends firm to firm and practice areas. But if you understand, which this just [inaudible] because I think technically probably you can increase capacity with work like what John's doing. But you can still use that number as sort of data to help you make a decision about the needs that your firm really has.

Ben: As long as you're adding the capacity at the right spot.

Melissa: Yeah, great point. Yes, great point.

Ben: Because that's the thing that we learned. So, I think, Ben was, and again, I don't know what he was seeing in the numbers when you brought on that associate before, but it's, I'm bringing in more work than I'm finishing. Therefore, I have a capacity problem so I'm going to buy capacity. And he did and let me pause for a minute and say, the exact same thing is about to happen in thousands of law offices all over the world with ChatGPT.

So, we're going to use generative AI and we're going to say, "Oh, my gosh, this tool is amazing." It's going to add capacity. The problem is, if it adds capacity in the wrong place and again, given the current state of the technology, those tools are going to require significant quality assurance work or quality control. And so, if you're adding capacity upstream of quality control, but your actual bottleneck is at quality control, which it often is for law firms. Then getting more things drafted could actually make things worse whether it's by an associate or by a robot.

Melissa: Absolutely.

Ben: There's one thing that John and I have started working on that I'm actually really excited about too, which he alluded to before, but I'd love to mention, if I could just shift gears just slightly. Is the client perception of the work that's being done, because we often as lawyers think well, I was busy, I was here, I was doing client work from the second I walked in till the second I left. And these clients are still yelling at me, going, "Where is this? Where is this?"

And that's because most firms are focused on utilization or what John would refer to as resource efficiency. Where this now focuses on flow efficiency, let's optimize the flow of the work coming through the firm, and that's what the clients see. The clients judge us on how fast did we get it done? Were we good at communicating and giving updates? They don't really know the technical accuracy of the work. We know that, other lawyers know that. But they're judging us on those things.

And that's what this focuses on is, okay, when we get a file in, let's prioritize those files that have been in the longest, let's get them through. And then from a client perspective, that looks better because we've optimized that process. Where if you're trying to stuff every minute of every day with as many files as you can, and you're not doing it in a smart way. Then what you're actually doing is, you're going to delay the delivery time for that client on that matter.

So now instead of six weeks because you've stuffed so many things in there, you've got so many cars on the freeway, that now is 8 weeks, 12 weeks, whatever it is. So those are now the statistics we're getting into of what's our average cycle time, our throughput for getting certain types of files in? What should our standard be? We've got metrics on, well 80% of those type of files get through in this amount of time. Can we bring that closer to what the average is, can we get that to X number? And so that's the stuff that I'm really excited about right now that we're starting to work on.

Melissa: That's so cool. That's so great.

John: Yeah, we're using terms like service level expectation, which is something that comes out of software and tech support. How long does it take you to get something done as a proxy for the client experience? And that's not something that you really hear talked about, I don't think, nearly enough in law practices.

The other thing and this idea of resource utilization and again to tie it back to this idea of hiring because, Melissa, what you talked about is using your net cases or your total open cases as an indicator that you need to hire somebody. If you bring that someone in, there's a very natural tendency to say, "Well, I'm paying for them. I better stuff them as full of work as I can." Which again creates the potential to worsen your bottleneck.

And so, one of the things that I talk about is, it's okay for people to be idle or it's okay for people to be working on non-hourly stuff once you're focused on flow efficiency. And we didn't mention and this is actually probably pretty important is that all of Ben's work is flat fee. And so, all of these things hold true in hourly billing models. So, I have got lots of clients that I work with who are hourly billers and are definitely benefiting from focusing on flow and flow efficiency and things like that.

However, with hourly billers, there becomes a point of diminishing returns where the efficiencies you're building into your system actually start to eat at the profitability of your work. Because you can't just replace an hour billed in matter A with an hour billed in matter B, because there's processing costs of bringing matter B on board. And so, one of the interesting side effects and at one time I was sort of anti-hourly billing, I'm a lot more agnostic now.

But part of why I'm agnostic is that I know that firms as they get more efficient, if they're billing hourly, eventually the light bulb's going to go off and they say, "We've got to change our billing model, it's time." But they'll have the data. They'll know because we're sitting here looking at it, and we'll be looking at the finances and we'll be looking at the flow metrics. And they'll be saying, "Our profitability is going down, but there's ways to fix that if we just change our model."

Melissa: So, one thing again, I love talking about this and we've talked about, John, you coming to maybe do something for Mastery Group or just introduce these concepts to the group. And if you're still willing to do that, that would be amazing.

John: Yeah.

Melissa: Because this isn't my area of expertise. And when I am talking to clients about the net cases for example, which is essentially the growth. We could see what's coming in versus what's getting closed out and if they understand their capacity. And I have something to say about that. But if they understand what each pod can handle, attorney and support staff can handle, then they can sort of set their threshold for when to make that higher. Otherwise, if they don't have that number, it feels like a hot mess, it's sooner the better for a hire.

But what I am not an expert in and I'm not going to pretend to be is to help them figure out, how good is your workflow and how good is your capacity? How reliable, you think of your capacity in one way, really is that the truth and what's the possibility there to increase efficiency? And so, there's a bunch of questions and a deep dive there that's really important. And I want listeners to clue into this, to give you a call if that's something you still do these days.

John: Absolutely. No, I love talking about it. I love working with folks on it. I mean, I love seeing the light bulbs go off. And then just taking the concepts and running with them, which Ben has done.

Melissa: Yeah, absolutely. Okay.

John: And there's so much to learn and a lot of it is counterintuitive. I mean, even the thing about capacity, it really does take taking a step or two back. Whenever there's a bottleneck, adding resources is only one way to fix it. There's process improvements you can make. There's sometimes technology improvements you can make. Sometimes there's cross training you can do. There's any number of ways to address it.

And so, I try to encourage folks and the Kanban system tries to encourage folks, and the method to really take a systems thinking approach and understand what's going on here? And what are different experiments I can run and how am I going to measure the success of those experiments in order to get the results that I'm looking for?

Melissa: Yeah. And you're saying there are different ways to approach the bottlenecks or approach the issues. But the only way to really figure out what probably the smartest move is for you and your firm and your set of circumstances is to dig in and evaluate in the ways that you help people do. I don't mean to say that, if you don't hire John, you're just screwed, that's not what I mean to say.

John: A lot of successful lawyers out there that I've never met.

Melissa: Right, totally. But this way of thinking, if there's something attractive about it for people who are listening, I mean, certainly I think they should reach out to you.

Alright, I'm going to break it off there because we go on to talk about some things that are a little out of date. So let me give you a few next steps. Number one, if you aren't already listening to Melissa's podcast, go look up *The Law Firm Owner Podcast*, you won't regret it.

Number two, I'm going to put in one more plug for my CLIOCON talk on October 8th. And if you're going to be at the conference, whether you can make my talk or not, let's connect. Shoot me an email at john.grant@agileattorney.com and we'll make sure that our paths cross somewhere in Austin.

And finally, one last plug for Kanban Zone, and remember, you can go to Kanbanzone.com\aa. And that's going to get you a 60 day free trial and also that free onboarding call with me. Thanks for listening and I'll talk to you next week.

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