Ep #39: Productive With Dollar Signs, with Clarke Ching

Full Episode Transcript

With Your Host

John E. Grant

Ep #39: Productive With Dollar Signs, with Clarke Ching

If you've been following my work for any length of time, you know that I'm a huge fan of bottleneck theory. This idea that you can make massive improvements to your legal workflows by focusing on just one part of your overall system, but only if you find the right part, the bottleneck.

In today's episode, I'm super excited to bring you my interview with the bottleneck guy himself, Clarke Ching. Clarke has written multiple books that break down the core tenets of the theory of constraints, which is the formal name for bottleneck theory, in ways that are clear and actionable for everyday people. Today, he's going to help you better understand how to improve your workflows and boost your profitability by thinking a little differently about your approach to legal work. Ready to become a more agile attorney? Let's go.

Welcome to *The Agile Attorney* podcast powered by Agile Attorney Consulting. I'm John Grant and I've spent the last decade helping lawyers and legal teams harness the tools of modern entrepreneurship to build practices that are profitable, scalable, and sustainable for themselves and their communities. Each episode I offer principles, practices, and other ideas to help legal professionals of all kinds be more agile in your legal practice.

Let me start and stop rambling myself and start by asking you, what is the theory of constraints? What is bottleneck theory? When you're encountering someone who doesn't know the first thing about the work that you do, how do you explain it to people?

Clarke: Right. Well, I don't tell them about the theory of constraints, because it makes people instantly fall asleep, and it's a curse. You'll find this with everyone you work with. We're all clever about what we do. We all have jargon and it just loses other people. So, I would normally explain what I do by just saying that every office, every team, every hospital, has one or a few bottlenecks and they are effectively the slowest point. And then I would give an example.

So, an example might be you go to a coffee shop. Let's say there's just one barista working there. And the pace that they can actually serve customers is determined by the pace of that one barista. Or actually, it could be determined by the coffee machine, if you had a long, slow coffee machine and your barista might be hanging around a lot, just waiting. Or it could be determined, it could be a bottleneck in that people can't actually get into the shop. So, there's very short queues because the parking's terrible outside.

There's just one thing that effectively slows down the flow of customers coming in, being served and then giving you money. And if you're in a hospital like here in New Zealand with a very good public health service. There's also a lot of waiting lists and the waiting lists, there's people waiting to be served. There's a bottleneck. There's something inside the system that can't keep up with the demand that's placed on it. And it's true in any system, there's going to be a bottleneck.

And really the fundamental question is, you're going to have a bottleneck, is it in the right place? So, it would be silly if you had a great big lovely coffee shop with loads of baristas, loads of seats, loads of this and you didn't say, have enough bathrooms, restrooms you call them. I'm just trying to localize. If you didn't have enough restrooms and people got the idea, you can't go there because there's no restrooms. So, there's going to be something in your business or in your not for profit or wherever you work that actually limits how much you can do.

And if there's more demand than that, then you're going to end up with queues. So, that's again got rather complicated, but if you want to look at it another way, it's just very easy to say if you've got queues, you've got a bottleneck. If you want to work through your queues more quickly and probably make more money, you need to find your bottleneck and figure out how to make it go faster.

John: Love it. Okay. And so, the thing and you touched on it already, but the thing that was revolutionary to my own thinking about this. And before

I'd come across your work, I'd read Goldratt's *The Goal* of course. And then actually my first introduction was through the book *The Phoenix Project*, which is about dev ops and it gets into some bottleneck theory in that as well.

But what I haven't gotten from any of those previous exposures and then even as I was developing and working on different ways to teach bottleneck theory to lawyers, you had this insight that was kind of earth shattering for me. Which is instead of just trying to fix the flow of work at the bottleneck, which is sort of the conventional wisdom, you have another option, which is to put the bottleneck where you want it. So, I'm wondering if you can talk a little bit more about that.

Clarke: Yes. So, let's just imagine something that's a bit like a lawyer's office. Imagine you've got a private surgeon, say, operating their own little practice. They've got receptionists. They've got computers. They've got surgery equipment. They've got all sorts of stuff and then they've got the surgeon. And all of those other things, no disrespect to them, but to a certain extent, they're a commodity. And there's one person in that small business who, if they took six months off the business would stop working and that's the surgeon.

So, it would be silly, you actually want them, so the end result is that what is good is you actually want the surgeon which is analogous to a senior lawyer. You want them to be deliberately the bottleneck which sounds like a bad thing. But it's effectively saying our business is going to run at the speed of our surgeon or the speed of our lawyer, and we're going to make that a deliberate decision. So that means that everything that we do in our business will be optimized around saying, we've got our surgeon and we've got our lawyer and we want them to be as efficient and effective as they possibly can be.

And it would be stupid if we didn't have enough receptionists or it would be stupid if we didn't have enough nurses. You can imagine every other type

of person that's working there or resource, how it would be stupid if they slowed down the money making resource, the bit that's not a commodity, the expertise, the one who actually makes the billable hours. It would be stupid if anything else slowed them down, but it would also be very common.

John: Right. Well, okay, and so I think you're onto something. And let me introduce a similar slightly different example and I'll just rip it from the headlines. Here in Portland, we've got a great new restaurant that was opened up by a James Beard award-winning chef. And that kitchen and that restaurant very much revolves around that chef. And they can produce high quality meals and then obviously also are trying to create a good dining experience for the people who are eating there.

And the demand for that chef's meals is off the charts. It's the hot thing right now in Portland, everybody wants in. But they organize their services in such a way that they don't allow all of the demand to hit the chef all at the same time. We have a certain number of tables in the restaurant, we have a certain number. So, I think in your example to transmogrify it over into mine, it would be stupid to not have enough sous chefs. It would be stupid to not have enough waiters.

It would be stupid not to have the right maître d's or hostesses or all of the various people. And then also not have enough stove space or counter space or all the other things that you would need. But the flipside of it and I actually think this is more common in law practice, which is the services are in such high demand that there's a tendency to let lots and lots of work into the system. And to me that's akin to saying, "Well, you've got this hot new restaurant and we're just going to let anyone in the building who wants in."

We'll treat it like a counter order restaurant as opposed to a fine dining establishment. And we don't have a reservation system and we don't have basically, rules for how we're going to moderate the flow into the work. And as a result, if this restaurant were to do that, the quality of the service and

the quality of the food would likely plummet or at least the quality of the experience.

Clarke: Everything, and billables, which is important to every business would plummet along with it. So, in my book I have the bottleneck rules. I have a thing called the FOCCCUS formula. And so really quickly, it's find the bottleneck, optimize the bottleneck so you go, "Oh, there's a chef." And you go, "Actually, I want them to be the bottleneck and I want them to work optimally." And then you've got three things that relate to everything else and they are coordination.

So, if you think of coordination, it would be we have a set number of tables. We stagger the bookings so that we don't overwhelm the chef. We make sure that we have the right number of resources, sous chefs. All of the other staff there so that we can coordinate around making the most of that shift because that's the rainmaker is the chef's skill and ability. So that's the first thing and FOCCCUS has three C's.

So, it's coordinate and then there's collaborate. So, there might be some times where you think, well, the chef's really busy. How can the other resources, the other people there, how can they help the chef? And that might be offloading some of the stuff that the chef normally did and giving it to a more junior person. Loads of different things that you can offload and get help from.

And then the last one is really where the magic comes from, which is curation. So that would be saying, I'm choosing, just imagine a museum you have a curator there, they go, "I've got this limited amount of display space but I've got dungeons full of stuff I could put on it. So, I have to really carefully choose how I take this precious space in my museum and make the most of it." And you need to do the same with your chef. You can go, "Well, it would be ridiculous if we had really incredibly low prices because we wanted to feed the world." That wouldn't work in this model.

So, we're going to put the prices up and effectively that curates the people who come in. We might also curate the menu because perhaps we don't want to have people coming in at 6:00pm and then leaving at 11:00pm and using up a table that whole time. So, we might curate the menu and what's offered so that people come in, have a good meal and then they leave sooner.

We might curate the menu so they go, "Look, some of this takes an awful lot of our chef's time, and they can only do five of those a night but the other ones there take far less time. So why don't we make sure that the waiting staff when they're talking with the clients, when they're standing at the table ordering, why don't we get them to recommend the stuff that actually requires less of the chef's time. So, the chief has more time to do stuff." There's so many ways.

And so many of these things are actually just psychological solutions, but curation is really, really important. And just to be a completist, the U stands for upgrade. And the way I think of that is, if you've got a computer, unless it's an expensive Mac and you can't upgrade the memory, if you've got an ordinary computer and you want to upgrade the computer, you might start by upgrading spending money on getting some more memory or a bigger hard disc. So, upgrades involves spending more money in any of the areas, whether they're the bottleneck or not to make sure that you've got enough staff for the system to go well.

And then the S is just basically start again, but to do it strategically. And it's strategically but there's a really important but here because we're strategically deciding that we want our really, really amazing chef to deliberately set the pace for the whole restaurant. And we've got to make sure that the rest of the restaurant is set up so that it makes the absolute most of that precious chef time.

John: Right. Yeah. Those all resonate with me in different ways. The curate in particular, I mean sort of one of my favorite things to do and I don't mean

to say that I get great joy out of this. But I see it as important when I'm working with a law firm client, I will look at the mix of practice areas that they're covering. And it often is one of my suggested possible solutions. I try to give people options and not necessarily recommendations. But have you thought about limiting the number of practice areas you serve because there's all sorts of complications that come from.

I'll give you an interesting example. So, I mean obviously if you're doing both, say, family law, divorce work and also estate planning work, those are very different workflows. They have different cadences. They have different toolsets, almost, different forms and templates and all the rest. They also serve very different client needs. The sort of emotional economic drivers of why someone would even search that out to begin with is different.

And just from a pure process standpoint, I want people to be able to get really good at running a certain type of work through their workflows. And the more different types of work they're trying to perform, the harder that gets and the harder it is to predict your capacity.

Clarke: There's a really lovely game you could play. You could sit and go, "What would be the easiest, most efficient, most valuable way of setting up a law firm or a restaurant or a coffee shop or whatever?" And you go, "Look, we're going to get a really good chef, say, and then we're going to find out what they're really good at. We're going to find the customers who really value that. We're going to love those customers and treat them really well and we're going to set it up so that they get really good service."

And then the game is, how could we make that worse? So you go, "We've got this great chef. Why don't we start offering take out Chinese food as well. Yeah, that would really be good, wouldn't it?" And could you see how suddenly your whole business would not only look diluted to your customers and so many complications. Actually, speaking of great chefs, Gordon Ramsay, I think he's known, isn't he?

John: Yeah, he's known, I think internationally at this point, yes.

Clarke: Right. So, I lived in Scotland for years and he was Scottish. And I think everyone who lives there wasn't overly fond of him. But he had this program in the UK, where he would come into struggling restaurants of all sorts of natures and he'd fix them. And one of the things to note is he didn't come into the really well run ones. No matter what level of the market that they were dealing with, he didn't come into those because they were really hard to fix because they were already running really well.

He would come into ones that weren't doing so well. And almost always from the few episodes I saw, he would come in and look at their menu and then go, "You're selling too many things. What five things can you actually cook really well?" So, he would match the menu to the cooking ability of the cook or the chef. And then they would just rewrite their menu and take everything else off and suddenly life got so much simpler. The quality of everything just shot up and everyone was happy.

And they started making a lot more money. Every restaurant, suddenly customers were coming there and they didn't care that there weren't 200 menu items on offer. They're just delighted that the half dozen that they did were really, really well done. And I think if we wanted to do the reverse, the easiest way to complicate and slow down any business is to offer too much and dilute everything.

John: Right. And I think another version and you hinted at it, both in the surgeon and the chef example is, the last thing you want is for that top level resource to be the person that's also in charge of cleaning the bathrooms or ordering the supplies.

Clarke: Wouldn't it be silly? Could you imagine? But it happens so often.

John: It does. It's interesting because it is one of the things that is true. And I think not unique to legal practice, but the lawyer that owns a practice, especially in smaller practices, they tend to be the chief cook and bottle washers. And they tend to be the sort of resource of last resort for whatever the possible thing is that's going on. And I think a lot of the lawyers that I

talk to have this experience where they show up at 8:00am or 8:30 and they have big plans for their day based on the client work that they intend to do.

And then life happens to them over the course very quickly. And it comes in, I think number one, one of the challenges is all the different channels that can happen to you and can cause interruption. And whether that's personal fly-bys at your office door or obviously email is the bane of a lot of people's existence these days and phones and texts and all the rest.

But I guess to turn this into a question. What strategies do you recommend to people to help them preserve enough capacity to do that highest order work while not feeling like they're dropping the ball on the back office or administrative or the other things that are necessary to run the rest of the business?

Clarke: It is a really good question. Probably the first thing is to recognize that if you are the lawyer, or if you're the surgeon or the people I work with are tech leaders. If you're, say, the leader of a software product and you've got 100 developers there. You're probably the most important person in your business. And just to acknowledge that, you might not really think that. You might not go around and tell everyone that obviously. But the first step is actually just recognizing that you are the flagship resource.

And so, you actually have to go, "Well, okay, in order for everyone to be prosperous and everyone to thrive, I need to make sure I get this done." And it's actually really hard for a lot of people to recognize that, myself included, because then it means you have to become then comfortable with that means I need to get help from other people. So, if I took my example, I mean I became self-employed as a consultant about eight years ago. I tried to do everything myself because money was tight. I was there, I tried to do everything myself, everything.

And then after a while I realized, I'm not good at copywriting. I'm good at writing, but I'm not good at copywriting for sales pages and marketing and

stuff like that so I found someone who could do that. And the difference for that was me going, “I need help. I will pay for help.” And it wasn’t that I was producing really bad content. It was that I wasn’t producing anything because it was so bad I would freeze and so I hired someone and we worked together. She went off and she did stuff and then came back. And then I would tweak it.

And suddenly my life got better because I had well written material that I felt like I could actually share and otherwise I was effectively completely blocked. A while ago I decided to get myself an assistant and I really didn’t want to. And I remember talking to the guy that’s coaching me and it’s a bit embarrassing to admit this, but it just goes to show how deeply ingrained this thinking is. I was talking to my coach that I had back then and he said to me, “I think you need to get an assistant.” And I said, “I don’t want someone that I have to keep busy all the time.”

And he said to me, “Your job isn’t to keep them busy. Their job is to keep you productive. If they do five hours’ work a week and that means that you can do 10 or 20 hours’ worth more other stuff, well, you can make more money. Who cares what you’re paying them? Your job isn’t to keep them busy. Their job is to make you productive.” And then he looked at me as if to say, “You’re the bottleneck guy in your business? Aren’t you meant to be the bottleneck?”

I turned crimson and went all embarrassed because I suddenly realized that that’s exactly what I would have told someone else, but often you don’t see it in yourself.

John: Absolutely. Yeah. I say all the time and I hire coaches as well and I say, “Look, I need a me for me.” You can’t see it when you’re too close to it. And I want to go back to what you said a minute ago. I love this idea because we tend to charge on a billable hour model, although there are a growing number of firms that are using alternatives. We still have sort of a

cultural, conventional wisdom predisposition to measuring the utilization rate of the people on our team.

And we feel, if we're not keeping someone fully utilized, then we're wasting money on their salaries. And what you said just a minute ago flips that and flips it in a really effective way. Your job isn't to keep them busy. Their job is to keep you productive.

Clarke: Commercially productive. Imagine productivity with a dollar sign attached to it. That's the difference. And most people think productive as being busy but productive with dollar signs in front of it, it means inevitably, that you don't want everyone to be busy as well as the bottleneck. You don't want the lawyer to be, I can make more money by working 16 hours a day and billing 16 hours a day. And that's not true, you can probably in six hours by curating who you work with, your productivity with dollar signs, measuring it with dollar signs will shoot up.

It's the myth, I call this utilization syndrome and the idea that we need to be busy and utilized and efficient. And my wife's an old age psychiatrist. So, she works with people when they get older and then maybe they've got Alzheimer's, dementia. And she said that quite often as people, it doesn't happen all the time, but some people as they kind of lose their faculties and sort of start to fade away. One of the things that some of them absolutely keep inside them is this need to be busy.

And I know my grandmother, I learned this from my wife because I mentioned this was happening to my grandmother when she was in an old folks home, that the staff had to keep her busy, but they would get cutlery and give it to her and mess it up. And she'd spend much of her day just sorting the knives and forks and that kept her busy. And my wife said that they have an unofficial title, they call it utilization syndrome. And I think a lot of us actually have that actually just built into it. I don't know if it's conditioning or if it's just part of the human psyche.

John: Yeah, I think that's right. And I think one of the challenges that I see with clients of mine and a guy named Ben Hudson who actually was on this podcast. By the time this airs, it will have been a few weeks ago. He talks about how he at one point recognized that he was the bottleneck and hired another lawyer, a junior lawyer to try to take a bunch of the drafting tasks off of his plate.

Only to find out that he was still the bottleneck because he was the quality assurance phase. And so, what he eventually learned was that he believed that his job was to keep this new hire busy. And his solution was to keep her busy at the place where he thought that the most work needed to get done. But because he did something upstream at the bottleneck, it just was slamming more work into himself and actually making his life worse.

And eventually what we understood and I didn't catch him before he had let that person go. But when we were working together a little bit later, he did have employees still. And what we recognized is there were lots of things that needed to get done downstream of this senior attorney, quality assurance work, not all of it required a law degree. But it still, what he came to understand is it was still better to put his team and basically be overpaying them for work that was not going to get stuck at the bottleneck.

And actually, getting all the way out the door delivered to clients, which was a good thing. Eventually you bill, you have a happy client. These are all the things that we are looking for, even though it wasn't necessarily the 'highest and best use' of that person at the time.

Clarke: Yeah. All of this stuff, it's a theory of constraints, but I'll go back to that big word that we started with. Intuition is almost our enemy and this common sense makes us do things that actually aren't good for us, even though they obviously look like they are, but they're not.

John: Yeah, it's interesting. I've had a similar experience with my assistant who is amazing. But we had a period where we weren't working together for a while and then she came back. And the first time we worked together,

she was charging me hourly. And the second time she came back and said, “Since we’ve had this gap, my hourly rate has gone up.” And I said, “I don’t care because I’m actually going to pay you a flat fee.” And I said, “I’m going to pay you the same amount of money every month. And we have an agreement that these are the sorts of things you’re going to do for me.”

But I don’t really know how predictable it’s going to be one week to the next and even one month to the next. And there are times where her load for me is very light. And then there are other times where I will have a project of some sort and I’ll throw it out and say, “Hey, Lee, I would love if you could do this.” And my sense and I can’t speak for her and she will obviously listen to this, but I think she welcomes the opportunity to do those bigger projects.

And because she’s sort of got the consistency and the certainty, it’s, look, I’m going to get my amount of money and she’s willing to engage and be part of the team when needed.

Clarke: That’s effectively the model I have. I’ve got two people that work for me and I’ve got the same kind of, it’s almost like a retainer model in one sense. But when you made that decision, did you suddenly feel relief? Did you go, “Oh, there’s so many things I don’t have to worry about now?”

John: And one of them is I don’t have to worry about, do I actually want to pay Lee x dollars per hour to do this or should I just do it myself? Because when I have to make that choice every single time, I’m going to keep things on my own plate way more often. Whereas once I make the decision, I can afford to pay this amount of money per month in order to have capacity. And again, we have an agreement if it were to get too, too big, she’ll let me know and we’ll work it out or we’ll delay it.

Clarke: Okay, cool, yeah. There’s so much trust as well in there, but you asked me before, the strategies. All of the strategies work on trust. They all depend on, can you trust other people? And maybe you can, but maybe you need different systems when you’re suddenly delegating stuff to people

so that the system, you trust the system. Do you trust yourself? Everything boils down to trust. So, if you talk about Lee, you go, “I trust and we’re both in this working together. We trust each other.”

And this is so much better and I bet your productivity with dollar signs, you’ve now got time that you were previously doing that stuff [crosstalk].

John: Absolutely. Yeah, I was going to say. The amount of money that I’m paying her a month for the last couple of years now at this point has more than paid for itself in terms of my ability to actually go do the business work.

Clarke: It’s really hard to learn how to do this other stuff though. If you’ve worked in an hourly billing model and most of your clients and your audience have. It’s really hard. It’s like my grandmother forgetting all sorts of things but it remains, and I’ve got to keep busy, got to keep busy, got keep busy. If you try and switch away from that, you’ve got to train yourself to focus on the productivity with dollar signs otherwise it hurts.

John: And if busy is core to someone’s identity as opposed to productive being core to their identity, it’s easy to make the wrong types of decisions.

Clarke: Yeah, absolutely.

John: Yeah. I love it. I do want to get back to one other question and it was that last step. So, the start again part of your FOCCCUS sequence and there’s two things in it that actually I think would be helpful to highlight. One of them, and again, I think that the human nature kicking in piece is that when people go to improve a workflow, but they often think as well, I’ll start at step one and I’ll get step one as good as I can get it, and then I’ll move to step two and move to step three.

And of course, the whole point of the theory of constraints is saying, “Please don’t do that.” You’ve got to find where the bottleneck is. But the other thing that I find challenging for some people is this idea that you think that okay, I’ve done some work to improve the bottleneck, therefore now I

get to go work on another part because surely the bottleneck has moved, but most of the time it hasn't.

I mean often your first few attempts at fixing or improving the flow at the bottleneck, even if they work, that doesn't necessarily mean they're going to work so well that your bottleneck is now somewhere else. So, I'm wondering if you can talk a little bit about that.

Clarke: Right. So the last bit, start again, strategically. Actually, I've got to confess, I don't use the FOCCCUS formula in the way that I described it in the book.

John: Yeah. And I know that because I've been following you, yeah.

Clarke: So, I use it in an iterative kind of way. I have what I call the FBI model, which is frame or find or focus. So, figure out where you're looking here. I've got a problem I want to fix. So, if I put a frame around it, B for brainstorm which is to come up with a whole lot of common sense ideas now that you know what the problem is you're trying to solve. Our chef is crazy, crazy, crazy busy because too many people are all coming in between 6:00 and 7:00pm. That's our problem. So, we've framed the problem.

Brainstorm, a bunch of brilliant ideas that you can come up with. And I'm sure as people are listening to this an idea's popped into their head, all sorts of things they could do. And then it's I, which is actually this two or three I's, depending on how you look at it. It's implement, iteratively and incrementally. So, in other words, don't come up with your idea and go, "Right, we're going to change everything." Just do a little tweak. So just tweak and try it.

And then what you find is you come up with some ideas and instinctively we tend to come up with really big ideas. But then sometimes when you look at the idea and you go, "What was the little bit of that idea that we could do?" And then you just go, "Why don't we do this?" And then

sometimes two or three bigger ideas when you look at little bits of each of them, you combine them together and you go, “That’s what we should do.”

There’s a really sensible little ish thing that we can do, and then we go and we tweak. We don’t have to make huge changes. It’s almost like you’ve got a document that you’ve written. You come in and you edit it by changing a few sentences around and the whole thing changes. You don’t have to rewrite everything. So if you look at that, it’s just this way of implementing it, then it’s a loop. So, you then go, “Okay, we’ve still got that problem. And is it the big problem we want to focus on?” No, we fix it. Okay, now let’s reframe that.

John: Yeah. So, it’s interesting and obviously the things you’re talking about are really consistent with the tenets of lean and Agile and Kanban method and they share a lot of DNA. But I think one of the biggest subtexts to the point that you’re making is that when you attempt to make these big bang improvements, it’s risky. There’s a lot of risk associated with these widespread changes.

And again, to bring it to a legal question and so I’m recording a podcast interview with another person tomorrow, not my podcast, someone else’s podcast about transitioning to flat fees for people who are doing hourly billing. And I’ve come to the point of view that you shouldn’t transition to flat fees by setting out to transition to flat fees. You should transition to flat fees by setting out to improve your processes to such a point that you realize you’re losing money by billing hourly.

And now you can start to say, “Okay, now that I’ve got my service delivery in such good shape then I can make this iterative change into a different product model.” But what I see over and over again in the shift to flat fees is people say, “Well, I’ve got to flat fee this work.” And they kind of come up with a mental model about what they think the flat fee should be. But they don’t really do the work on the product design or putting the right guard rails on the services or everything else.

And inevitably, one of the first 10 times they sell their thing under a flat fee, it gets way bigger than they thought. And then they go, “Oh my gosh, I’m losing money. This flat fee thing is killing me. I’ve got to shut it down. I’m going to go back.” And they learned the wrong lessons from the effort because they tried to do this big thing instead of what you’re suggesting, which is, let’s do these incremental little marginal things. Let’s reflect on how they worked, let’s reframe, yet again.

Clarke: Yeah, and it’s the FOCCCUS thing. So, if there was a metaphor for this, it’s most people want to make changes like a shotgun, very loud and change everything. We want to be sniper like. We want to figure out where we’re aiming, which is the F. It’s figure that out, where we’re aiming. And then we want to make a very, very quiet, focused change. And then we might need to repeat that process, but if we just do a shotgun change and we try and make loud big changes, it almost always ends up in failure.

The other way is, it’s not nearly as exciting because it involves quite a lot of thinking and it’s hard work.

John: And it’s interesting because in the legal profession, and again, I think this is true in a lot of places, our clients hire us to fix things. And so, we tend to want to have a bias towards sort of big action fixes. And even in our client work, we think that that’s what they want. Although I think we could probably extend this discussion into the client work as well, that maybe some of the things that we talk about, maybe we’d be better off coming in a little more subtle, a little more introspective and reflective and trying to do little tweaks along the way.

Clarke: The cousin of utilization and keeping everyone busy, this cousin is doing big bang change. So, I have two kinds of rules. I tell everyone I work with. One is, you’re the leader, don’t be the bottleneck unless you only have a small team. If you have a big team, don’t be the bottleneck. The second one is, don’t boil the ocean. And if you take those two things together, you suddenly go, “Oh, wow, I have to delegate. I have to curate

my work, I have to say no. And if I try and change everything all at once, it's going to be too much. So, what I need to do is not boil the ocean. I just need to make small changes."

And it would be silly if I just made random small changes. So why don't I think a bit, and then I'll just make a few tweaks and I'll see what happens and then I'll know and then I can make a bigger tweak if I need to, but we don't have to. If you were to take, I hope this analogy works, it just came to me. Imagine you've got your car tire there. You don't go in there and just put, I need a bit of air in the tire. You don't go in there and just go, "Ching, put whatever, this big dose, the equivalent amount of air if it was flat."

Because if it's only got a little bit, you only need to put a wee top up and suddenly your tire's right. So, you've got to look and just a little change can make a tire run much better. You don't have to go and buy new tires for instance.

John: And the key is you've got to measure a little bit. That's the other piece of it because you need to have a feedback loop to figure out, did this thing that I just tried, actually accomplish what I was hoping?

Clarke: Yeah. And it's really hard. If you think about this, the lovely thing with the people that you help is that they're all, well, I imagine almost all of them are really intelligent.

John: They are for sure.

Clarke: Yeah. So, they're going to be really, really intelligent. But if you're really good at, say a body of knowledge and a way of thinking like law or surgery or even making coffee. There'll be other bits that you just don't think about naturally, how to cause change to happen in a nice quiet way that improves things. It is not a skill that we're taught. And some people are naturally good at it. Others like me, I've had to learn everything I know over many years of doing the exact opposite but it just takes time.

It's a little bit of a different way of thinking about how to improve things. And if we take the stuff that's built into us, our common sense approach, we're keeping everyone busy and then making big changes that fix everything. We end up failing, but if we can go, "Not everyone needs to be busy." We have to be clever. We have to work smart, not work longer. And if we're going to change stuff, just look and just think, where do I need to tweak?

Just imagine if you're looking, this is a story that happened with GE, I think it was actually General Electric. And I can't pronounce it, though I have been there, Schenectady.

John: Yeah, it's pretty close.

Clarke: Did I get close? Oh, good. They had a bit where I don't know who it was that came along, but it was someone I think from maybe Ford's company came along. And they had a problem in their factory and they hired someone to come and he just sat down and he just looked at this machine and he looked at this machine and he looked at this machine and he just sat there. And then he came up and he got a piece of chalk and he put an X and he said, "There's your problem there. Get your engineers to go look at that."

And he just sat in his wisdom and his experience, he just sat and watched. And that's really hard for us to do because we want action. We want to come in and fix everything.

John: Right. He wasn't walking the whole factory floor. He wasn't interviewing 28 people on the line.

Clarke: No. He just used his cleverness and his experience to come in and look. And I think the punchline of the story is that he then sent an invoice for what was maybe four hours, which I don't know, might have been the wages of one worker for a year. And you've seen many versions of this story. I think the original one was there and it's, "Well, yeah, I think it was worth it for you, wasn't it?"

John: Right. A number that would seem shockingly high as an hourly rate, but in terms of the value he departed, yeah, right. Well, Clarke, thank you so much. I have so many things I want to talk with you about. I'm hoping maybe you'll come back sometime.

Clarke: Why not?

John: Alright, but I appreciate your time and your insight and just thank you for sharing your wisdom with my audience.

Clarke: You are very welcome. It's such a fun topic, even though it sounds like it's not.

John: It's sure fun for me, so thank you.

I want to break in here to wrap things up and summarize some of my core takeaways from Clarke's advice. The first is that your workflow bottleneck isn't just an obstacle, it's an opportunity. By identifying the true bottleneck in your practice, then understanding why work is getting stuck there and it might be a process problem or a resource constraint. But once you understand it, you'll be able to get work flowing more smoothly. That will lead to faster delivery of client value and that in turn will accelerate your ability to generate revenue based on that value.

The second and we didn't really talk about this as much in the interview, but it comes up repeatedly in Clarke's books. It's that the best way to identify bottlenecks in knowledge work environments is to make the work visible, ideally using a Kanban board. Once you do that, any column on your board where lots of work is piling up is a strong candidate for being your system bottleneck.

The last one has to do with busting the myth around utilization rate. In fact, if you remember only one thing from this episode, I want it to be what

Clarke said about how to think about the role of your team members. Remember, your job isn't to keep your team members busy. Their job is to keep you productive, specifically to keep you productive with dollar signs. And when you're the bottleneck in your own practice, which again is probably the situation, it doesn't matter if everyone else on your team has some slack in their capacity. In fact, it's probably a good thing.

The only thing that matters is that the team as a whole is able to get deliverables out the door. And that usually means making sure that you're able to spend as much time as possible working on that true value chain. Now, accepting that as true has a lot of ramifications from how you design the roles within your organization to how you assign and quality check your team's work, and even how you set up your incentive and bonus structure. So, look for more on those topics in future episodes. But if you have specific questions, please send them my way.

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

To help other attorneys and legal professionals discover this podcast, it helps a lot if you could rate or review me on Apple Podcasts or Spotify. And of course, be sure to subscribe in your favorite podcast app. This podcast gets production support from the fantastic team at Digital Freedom Productions and our theme song is the instrumental version of Hello by Lunareh. That's it for today's episode. Thank you for listening and see you next time.