Ep #63: Legal Automation Pitfalls: Are You Meeting Client Needs?

Full Episode Transcript

With Your Host

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There's a lot of conventional wisdom in the world of law practice advice telling you that the more you automate, the more efficient your practice will become. And there is a lot of allure in the promise of automation, freeing up your time, reducing costs, even taking on more work overall.

But one of the things I see over and over again is that automation done poorly can actually make things worse, not better, for your overall practice flow. What's more, the symptoms of bad automation can be subtle. They're easy to miss if you don't know what you're looking for.

In today's episode, I'm unpacking those risks of over-automation and bad automation. How it can overwhelm your team, frustrate your clients, and create failure demand and rework in ways that are unpredictable and ultimately disruptive to you and your team. And then I'll show you how to design automations that truly support the human elements of your practice, both for your clients and for the members of your team.

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

Hey everyone, welcome back. So in last week's episode, I talked about some of the pitfalls of delegation. And, you know, the thing about delegation is it's one of those things that everyone sort of accepts as a self-evidently good thing. There's so many things in practice management advice and business literature and all these places that talk about the best way to scale, especially you as an expert, if you're a law firm owner or a team lead or a practice group lead, right? You want to be delegating more of your work. And that's true. I get it. But there are downsides to delegation if you don't do it well. So if you missed last week's episode, go back and check that out.

But this week I'm going to do something similar, except our topic is going to be automation and it's very similar, right? There is so much out in the world that is telling us we should be creating systems, automating our processes, leveraging technology, and all of it is true, but it is not that easy. It is not so simple as just automating the thing you're already doing, because if you don't get it right, then the automation can actually cause as many problems as it solves.

And let me start by recognizing that automation is really alluring, right? There is a lot to want to like about the idea and the concept of automation. It's fast, it's efficient, it promises to free up your time, and that's great, but that's really a very self-centered look at the purpose of leveraging these tools or these technologies. The thing we want to do instead is make sure that we are using automation to elevate the human elements of our law practice.

So if you're using automation, say like emails or forms to just push a bunch of information onto the client so that you don't have to deliver it one-on-one, I get that, that's alluring, but if it's creating a worse client experience in the process, it's gonna come back to bite you. And internally, there's a related but slightly different problem, which is if you're using automation to speed up parts of your system, but the system just winds up putting more work on somebody on your team downstream of the automation.

Basically, if it pushes more overload onto your team members, then again, you're just gonna cause more problems because as I talk about all the time, overload, overburden is one of the biggest contributors to problems inside of a workflow.

And I think a lot of the problem actually comes from how automation is sold to lawyers and the members of their team, right? Again, it's talked about as being fast and efficient, but as I've said many times, if you're focusing on efficiency as a goal, you are setting yourself up for failure. Efficiency is a terrible, terrible goal. Now, I'm not saying it's a terrible outcome. We want more efficient practices, but if you go looking for efficiency, the inevitable result is that quality will suffer. I guarantee it. Even if you think you're being careful about it.

If you're looking for efficiency, something is gonna go wrong on the path to quality. And that can be any dimension of quality. That could be the quality of the client experience. That could be the quality of the work product, the quality of the deliverable. Whatever it is, if you're focusing on speed and efficiency, you are likely to break something from a quality standpoint.

So what should we do instead? We should focus on quality, right? We want to make sure that we are creating a quality client experience, that we're creating a quality deliverable, something that isn't going to cause additional work somewhere downstream as a result of the tool, the technology, the process that you've designed that is quote-unquote more efficient. And the good thing about a quality standard is that it inevitably results in more efficient workflows. It's just you can't be looking for the efficiency. The efficiency is this wonderful side benefit that you get when you focus on quality.

And so I hope one of the things you'll get from this episode is that automation is not a strategy, it's a tool. And it often gets sold to us as a strategy, right? Again, create systems, create automations. This is what you should be doing. It's not, right? The strategy should be delivering client value. And you deliver client value through meeting the practical and the social-emotional needs of your client, and then also doing so in a way that's sustainable for your team.

If you go all the way back to episode one of this podcast, where I talked about four Agile principles to help your legal practice. The four principles, number one is to focus on delivering client value. Number two is respect for people. And we want to make sure that we're doing both of those things as we implement tools inside of our practice. Number three is actively managing your capacity so that you can deliver that valuable work product. And then number four is to create a culture of learning and feedback. So hopefully you'll hear all four of those themes reflected in this episode.

And just a quick side note, and I don't want to call anybody out, but the impetus for me talking about this actually comes from a new law firm that I've been working with lately that I think of as an over-automated law firm. As we were doing some of the diagnostic work, some of the early work, I had heard multiple times from the owner of this firm how much he'd automated into the practice and how great it was that he built all of these systems to make the workflow quote-unquote efficiently. But when we dove in and started doing some conversations with the team, it became really clear that two things were true.

Number one, the automation was pushing too much work onto his people. They were feeling overburdened and that overload was causing stress and sustainability concerns in the practice itself.

Number two, a lot of that overload actually came from clients calling or emailing or wanting to check in with their attorneys more or even the paralegal. But really, they wanted to talk about the attorney. And the reason I think why this is true, and certainly the team members speculated that this is the reason it was true, is that they weren't getting the human connection that they crave in the early parts of the matter because so much of it had been automated away.

And we actually went into a pretty useful discussion around a bunch of stuff that I covered back in episode six, which is what clients really want from lawyers. And just as a quick recap, there are five high-level things that we want to make sure we're talking about. And I actually talked about them more recently in the Damien Riehl episode a few weeks ago. But clients have these practical needs, right?

When they reach out for legal help, they are typically trying to either mitigate risk or navigate complexity or more often some combination of both of those things, right? They don't reach out for help unless one or both of those things is present. And it's really easy as lawyers, as practitioners, to want to focus in on those practical things. That's what we're trained to do in law school and through practice.

The thing we spend a lot less time on, although I think we should be spending a lot more, is that clients also have three high level social emotional needs, right? When they're facing risk or facing complexity, the first thing they want to do is get information about the type of risk or the type of complexity that they're seeking. But the information itself isn't enough. They also want advice. And again, we're pretty good at that as lawyers. It is the core of what law school teaches us to do, is to take the client's information, apply it to what we know about the law, and then give them advice about how to go forward. So that's great. We're usually OK at that.

The third thing that we usually miss, or that automation certainly runs the risk of missing is that clients also need a sense of consortium. They need something that is telling them that there is somebody in this with me, that there's someone I can count on. And if you're not giving them that sense of consortium, they're gonna keep seeking it.

And that's kind of what manifested with this new firm that I'm working with, is the clients weren't getting that sense of consortium early in the process, therefore, there was a form of failure demand happening, right, and failure demand, as I've talked about before, is demand on your finite capacity that comes from a failure to get something right upstream or get something right the first time.

And so the automation was creating a form of failure demand because clients were seeking that consortium, but they were doing it in unpredictable ways. So it was coming up sort of randomly. It was very interruptive for the team to have to respond to these client phone calls, respond to these client emails, where they just want to make that human connection. And then someone on the team has to drop whatever they're doing in order to provide that connection. Or maybe worse, they don't do that, and so then the client keeps trying and keeps trying.

And you maybe have thought of people that do this as being problem clients, and I'm not denying that there are problem clients, right? That is very real. Some clients are needier than others. But I also very strongly believe that the reason some clients come off as needy is that you're not actually meeting their needs, and so you've got to think about what are the things I might be missing.

So keeping those five things in mind, let's talk about a few ways that automation goes wrong inside of a law practice. And the first one is what I loosely think of as the transactional trap, right? We automate things that take our client experience and turn it into a very transactional relationship. And, you know, this is the result of overemphasizing those practical needs of the client, which, you know, we should hit those, but underemphasizing the social emotional needs of the client.

So when we flip questionnaires over to them that feel sterile or detached, intake forms that just list question after question about personal or financial details with no real context about why you need that stuff, it's obvious to you and maybe to your team. But for most clients, most of the time, this is the first time that they're going through a legal process like this. And so nobody likes the thing at the doctor's office where you just have to do these densely packed forms of question after question after question.

And yet in legal, we replicate that all the time. And not only is filling out that kind of form an unpleasant experience, it can actually increase client anxiety. It can increase their feeling of risk or complexity, because if they don't have context why you're asking all these personal questions, all these details, you know, there are so many scams and other things going on in society right now, right? We're trying to train people to be more careful about sharing their personal details.

And if we're not giving people context about why we need it and how it's going to help them, it should ping their radar, right? It should put up a red flag. Again, if they trust you if you have given them a good explanation, then they will happily give up that information. But if they don't have the right context, it can be a real problem.

Another mistake in this sort of transactional trap is how you actually ask for the information. And again, I think I've said this before, too, but if you're still using fillable PDFs, it is a terrible, terrible client experience. PDFs suck. Number one, they are terrible on mobile devices, and a lot of people are using mobile for more and more of their stuff. But even if it's on a screen, it is not a good experience to go through a PDF questionnaire.

So, look, I know a lot of you are probably using things that were handed down to you, maybe your practice is old, whatever it happens to be. And, you know, you once had a printed questionnaire and taking that printed questionnaire and turning it into a PDF makes sense, and then taking that flat PDF and turning it into a fillable PDF makes sense.

But those little incremental steps are actually not what you should be looking for as your end product. The way better client experience, and I think ultimately even experience for working with the information you get back from these things, is to use a guided interview, to use a questionnaire that is using one of these sort of modern software tools that can go question by question or maybe include a few sets of questions on the same page, but it's not just giving you miles and miles of gray and question and intrusive personal details and things like that.

We want to go in a way that is adaptive and is sort of guiding clients through a process as opposed to just treating them as this bloodless source of data that you need to get for whatever legal matter it is that you're going through.

And the good news is there's lots of tools out there that can do a much better job at this than the typical PDF. If you're using a document automation tool, and I've talked about Gavel before, I'm a big fan of Gavel because they've given a lot of attention to the client experience in working with the questionnaires and the guided interviews that you can create through that system. Clio Draft, I think, does something similar. I'm not as familiar with it. You can use sort of a general purpose tool like JotForm or Typeform, or you can use a platform-based tool, right?

Google has a Forms, Microsoft has a Forms. I don't think they tend to be quite as user-friendly as certainly the ones in Gavel or even the ones you could build in JotForm or Typeform, but they're way better than your PDF documents. So if that's what you got and you feel like, okay, I'm already paying for this in my 365 subscription and so I wanna use that, great, start there.

The thing I really like about Gavel is that it has great support for tooltips or those little like info buttons. And so you can ask a question and then you can also into the questionnaire, you can code a tool tip so that when people hover over a certain icon or click on an icon, they get a pop-up that says, hey, we need this because, or when we ask you about this kind of information, this is what we mean. Here's a plain language explanation of what we're looking for.

And in doing that, what you are thinking about is the client experience. You're actually helping create a sense of consortium, create a sense of understanding, right? You're giving them that wisdom, that information seeking, because you're providing the context. And that's going to help sort of bring down their stress levels. It's going to empower them to want to continue filling out your form. And ultimately, I think it's also going to result and a better quality input from the client, right?

When you explain what it is you're looking for, then you're more likely to get that as opposed to trying to cram as many questions a single stupid PDF page and leaving it up to the client to figure out what it is as you mean, and even if you accompany that PDF with a cover letter or whatever, now people are having to cross-reference or remember, or chances are they don't even read the darn thing.

So I really like context-based information that you can get out of a tool like Gavel as opposed to having it in these different places. Having it at all is a benefit, right? I'm not saying you shouldn't have it, but as much as possible, you want to make it part of the experience, make it part of the workflow, not have it be this separate thing.

The next pitfall I see a lot is law firms that create an automation or automate a form, a process, a questionnaire, whatever it happens to be, and then they spent all their time doing the backend work to code the thing to try to get it right, and then they just push it straight to the client. And that is a huge potential mistake. I'm not saying it's wrong every time, but the better practice, from my point of view, is to validate the process. And actually, this begins with validating the process before you even code the automation.

Before you go spend a bunch of time and effort using up your finite capacity to build a system that is going to do this thing, sketch it out in a document, sketch it out on paper, and then test your sketch. Give it to your intake person. Give it to a paralegal. Let them run through it with a client on the phone or in person or on a Zoom call and see how it performs in that context first. Maybe you phrase questions in a way that aren't truly understandable, or maybe you've got the order of things in a way that doesn't really make sense from the client perspective.

And using a human in the loop to validate and test these things is a far better way to uncover where these little problems are before you go to the more detailed effort of coding it into your system. Because once you've coded it in, now you've got to go change it. But if you're using it on paper, in a Google doc, in a Word doc, whatever you want, and you're capturing it that way, yes, it's less efficient in the early going, right? It's less efficient to have a person ask these questions in person than it is to have it be automated. But again, if that automation is going to cause problems down the road, you've just automated problems into your practice, not out of them.

So whenever you change things, keep a human in the loop for a while and use that person, actually empower that person to give the feedback to help you understand what's working, what's not working. Also, I should add, that person can be you, right? You can do the intake and you'll hear directly what the client is understanding, what they're not understanding.

One of the things that can be really effective is to record those interactions, obviously with client permission and making sure that you're being safe about all of your practices around where you store client information. But if you record that interaction and then play it back and you hear yourself or the person on your team explaining things to the client that aren't in the script or aren't part of the form, then that's a really good indicator that they're covering for something that you need to account for when you go to code it into, again, your document automation tool or your form tool or whatever it happens to be.

I'll go one step further. This is actually a really useful place where AI can help you. And again, assuming you're using AI in a safe way. You're comfortable with the data, the storage, the processing, right? Usually, this means you've got a paid plan. You're not just throwing your client information willy-nilly out into the atmosphere.

But if you give a paid version of ChatGPT or a paid version of Claude, the original form that you're using, the Google Doc, the Word Doc, and then also the transcript from the conversation that you're having with the client, and then ask it, hey, can you point out places where I gave clarity or asked questions to the client in a way that was different from what the script said. It'll do a really good job of highlighting those for you.

And let me also point out, right, using a team member, using a human in the loop, it's still more efficient than maybe going through things the old way. If you're using a script and and your person is going through that script, you're going to get a quality improvement because you're going to get more consistent answers, more predictable answers to the questions you're trying to get answers to. And that's going to make things run more smoothly down the road.

So there are two core concepts from Agile that come into play with this recommendation, right? Number one is to run safe-to-fail experiments. So when you're going to change something, change it in a way that is going to be safe if it fails or that you're gonna be able to cover for it if it fails. And having a human in the loop is going to be more likely to cover for the shortcomings of your form than it is if you just put that form directly in front of the client.

The other high-level concept is that we constantly want to be validating our assumptions. We wanna be getting real information about whether the things we think will work are actually working. And something I say to my clients all the time, I'm not sure I've said it on the podcast yet, the hardest part about validating assumptions is recognizing when you've made one. And that's where the recording and the listening back or the getting AI feedback can be really helpful is it sort of puts your assumptions into stark relief.

Okay, so those are the pitfalls. What are some better practices or maybe some principles for thoughtful automation, for getting things right the first time with a good, well-designed automation? The main thing is to design your automations with the human needs in mind, right? We are not just technicians. We are not just solving the practical problems. We have the social emotional needs both on the client end and on our team end. And we wanna make sure that we're not skipping over those because they can create much bigger problems than we anticipate.

So on the client side, right? If you've got anything that's client facing, whether it's gathering information or whether it's using like e-mail automations or drip campaigns or other things to push information back out to them, we wanna make sure we're hitting on as many of the five client needs as possible, right? In what way is my request from you or this information I'm giving you helping you mitigate the risk that you're trying to mitigate? In what way is it trying to help you navigate the complexity of your situation?

And I think you can even be really pointed about saying this is the risk, this is the complexity, this is how we're mitigating, this is how we're navigating, right? These are things that clients need, and I think calling them out in a structured way can be really useful.

And then, of course, we also need to be hitting on the social-emotional needs. So what is the information specific to the risk and complexity that you need? How am I providing in a way that is easy for the client to consume and understand and not have to be coming back and asking for more?

So that can be structuring. I think the more you use bullet points as opposed to paragraphs, the better off you're going to be. That can be your choice of language, right? I think moving things down to an eighth grade reading level or for some practices, even like a fifth grade reading level, making it really simple. You know, I think one of the things we sometimes fall into is we want to dazzle people with how much we know about stuff, but you know, you've already done the selling at this point. You've signed them up as a client, or maybe even if this is part of your sales process, I think more than dazzling them with what you know is dazzling them with your ability to make it clear to them.

When people are faced with risk and faced with complexity, they're not doing their highest order intellectual thinking. So even the smartest people in the world are going to appreciate that you've made things clear and concise and understandable so that they can calm down their nervous system, their stress response, as opposed to having to be all analytical about it.

That's capturing the human needs from the client side. But when we're designing with human needs in mind, we also have to keep in mind the needs of our team members. And so we want to make sure that we're designing our automations in a way that is going to help our teams reduce busy work, reduce rework, cut down on the repetitive tasks, make their cognitive load as easy as possible. And yet we also still have to key on the social emotional needs of our team members as well, right?

We want to make sure that they can maintain meaningful engagement with the client, with other team members, right? That they're not just cogs in the machine. We don't want to be just pushing more and more work in a way that is going to burn people out and not give everybody on your team the high-level things that they need that sort of comport with the values of why they're doing this work with you in the first place.

If I can give you two things to think about so I've given you five already. So let's think about the practical needs, the social, emotional needs of the client and of your team members. But as you're designing your systems, your automations, your forms, all of these things, I think there are two really core things you wanna keep in mind.

Number one, how can I design this in a way that reduces overwhelm, that reduces overburden? If you're bombarding a client with a bunch of questions, that can be overwhelming. And when clients are overwhelmed, they tend to seize up, they want to avoid it, maybe they're going to go through it sort of real quickly and you're not going to get great answers. Whatever it happens to be, overwhelm is always going to be something that generates problems down the road. So at risk of repeating myself, right? How can I space things out? How can I present questions in logical groupings that aren't too many questions at once? How can I use language that isn't overwhelming, right? All of these things are going to be helpful.

The other high-level principle, going back to what I talked about at the top of the episode, is how can I improve the quality of the result of this process, of this automation, of this form, whatever it happens to be? We want good quality the first time because that then reduces or eliminates the failure demand of having to go back and forth, doing rework, getting more information, dealing with the client's social-emotional needs because you are not hitting them with your whatever it happens to be, we want to be creating a quality experience for the client, and we want to be creating quality outcomes, deliverables, work product, etc.

So looping all the way back to that new client of mine, right, that sort of was the impetus for this episode. I can't report on their successes because it's too early, but I can tell you what they have committed to try. And the main one is that they're putting more humans in the loop earlier in their process so that they can provide that guidance and also provide that sense of consortium that we think their clients are thirsting for.

They're actually going to start using their existing automation, the sort of forms that they've got built, but they're going to put an intake person back in and have them run through the questionnaire with the client over the phone. And they're going to do that recording thing, I think, so that we can actually find out where is the human providing input, navigation, information, et cetera, that the form might be missing. And then we can hopefully go back and push some of those things back into the form.

And they're actually doing it in the name of creating a better experience in that first meeting with an attorney. So they're sort of saying to the client, you're going to get an hour with the lawyer, and in order to make that hour as effective as possible so that you get everything you need from it, we get everything we need from it, we need you to have this information, we need you to give this information to us first.

So one other concept I talk about all the time, and I'm introducing a new thing late in the episode, but it's effectively a definition of ready. So we're saying you're not ready for that meeting with the lawyer until all of the information gathering steps are accounted for. We have the information we need in order to make that meaningful. And we're willing to do what we need to do, even if it means getting on the phone with you, with an intake person or paralegal, in order to get that information so that you can have that high-quality interaction down the road.

And the hope is, the plan is that by introducing, you know, maybe some intentional inefficiencies, but putting that human back in the loop in the early parts of the process, what we're going to wind up doing is having a better-informed client, a more engaged client, a client whose practical and social-emotional needs are being met, so that when we go back to them down the road and maybe need more information from them, they're going to have the context, they're going to have the willingness to participate.

When we tell them, hey, this is going to be a long part and this is just part of our process, there's nothing for you to do for a while, they're going to understand that, they're going to listen to it, and they're not going to keep emailing or calling and saying, you know, where's my stuff, what's going on, etc., etc.

In doing that, we're going to make it so that the people on the team don't have to respond to that failure demand, which means they can spend more time doing the valuable client work moving matters forward, which in turn is going to make the whole process more efficient. But again, we're not looking for the efficiency, we're getting the efficiency as a result of focusing on the quality. It hasn't happened yet. I've done this with other firms, though, and it works. This is a pretty good playbook for getting work to flow more smoothly through your practice.

All right I'm going to leave it there for now. If you found this episode useful, as always, please forward it to a friend or a colleague or a co-worker. It really, I think, helps spread the word. And, you know, I'm trying to put this good advice out there that you all can use. So also, if you find it useful, let me know. Shoot me an e-mail john.grant@agileattorney.com if you have questions about it, if you want clarification, or if you want me to hit on a totally different topic. I love getting listener questions that I can respond to in the podcast.

As always, this podcast gets production support from the fantastic team at Digital Freedom Productions, and our theme music is Hello by Lunara. Thanks for listening, and I will catch you again next week.