

Ep #73: Don't Let Magical AI Thinking Cloud Your Sense of Capacity



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One of the challenges around adopting new tools and even new processes is that you need to occasionally reset your understanding of your honest reckoning with capacity. It's another place where the optimism bias creeps in to make you think that you and your team are going to be able to get more things done than is realistic.

And it can set you up for failure if you're not careful. As you'll hear in a few minutes, it's been affecting me lately even though I know better, largely because I got away from using the tool that gives me a good feedback loop around what my actual capacity really is.

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.

Welcome back, everybody. So, this week on the podcast, I'm going to continue our discussion of capacity and that honest reckoning with capacity, which I obviously went over in quite some detail last week, and the flip side of that equation, which is the brutal assessment of priorities.

And I want to get into this because one of the things that seems to be happening lately, and partly I am bringing this up because I notice it in myself, is that with the rise of all of this new technology available, and specifically the technology around generative AI, I've noticed that I'm having a harder time assessing my own capacity.

And I wanted to bring this up because I want to, number one, call it out as something that's real, and number two, I think it's probably happening with a lot of other folks as well, and I know some of my clients are noticing it happening with them. And I think there are actually two elements that are contributing to some problems of capacity analysis and understanding in

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this new wave of techno-enabled law practice and generative AI and GPTs and all these other things that are coming into play.

And number one, actually, just sort of has to do with FOMO and marketing overload where there's so much rapid development going on in this space, right? Technology development has been on a tear, and even before the rise of generative AI, there's a lot of legal tech that we've been trying to keep up with. But with Gen AI and all the new products that are coming out around Gen AI, it's definitely getting worse.

And I think for a lot of law firm owners, a lot of practitioners, that's creating this fear of missing out or fear of falling behind or missing some competitive advantage, really doing something, or failing to do something that other lawyers or legal technology or potential competitors are doing. So, you're worried that it's going to leave you in a less competitive position, that the market is going to leave you behind. And so, that's causing people to spend a lot of time and attention and brain cycles just trying to keep up with the news around what's going on.

And like I said, I know I'm doing this a little bit, and I hear it from a fair number of my clients where I'm getting more and more pings from people saying, "Hey, what do you know about this particular technology?" Or, "Have you heard about this new tool?" Or, "Did you see this news report?" And, "Did you see this Bob Ambrogi article?" And I love Bob, but I think when it comes to attention hacking, he's actually part of the problem sometimes because his business depends on grabbing your attention too.

And I know he does great work. I don't mean to malign him in any way, but it's his job to find and post and promote and ultimately help people keep up or keep on top of all this new technology, and that's not easy. And Bob is documenting the existence of all this stuff. It's not really his role to filter through and report on whether these new tools actually work to solve the problems they claim to solve. That's for the marketplace to sort out.

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But regardless of where you're seeing it, whether it's from Bob, whether it's from the ABA, whether it's from your local bar, whether it's from other legal news or general news sources, we get all of these messages and we feel like we should be paying attention to all of these things because we don't want to miss something.

And I've talked about this in past episodes, but this is one of those situations where if you don't have clear goals, if you don't have clear strategies, clear direction for what you need or want or are trying to accomplish with your law practice, then you're going to be far more susceptible to these types of marketing and other manipulative messaging that is just out there in the ether right now.

And I really encourage you, if you want to go back and listen, I hit on this a lot in Episode 68 where I talk about adaptability by design and the ability to adapt to new things but to do it within the context of your existing vision, your existing strategy.

I also talked about it with Tim Lennon back in Episode 54, where we hit the topic of Wei Wu Wei or action without action and how having clear plans and clear strategies can make some of the decisions about, "Should I or shouldn't I be paying attention to this new thing or actually be adopting this new technology?" And then I talked about it back in Episode 25 when I discussed building and following a law firm strategic plan.

And the thing you need to keep in mind, and I think you all know this at some level, but these technology companies, they're not just marketing at you. They're using the science of attention hacking and brain hacking to capture your capacity and try to instill in you this fear of missing out so that you will want to rush out and pay a license fee and start using their products. And that's obviously what they're in the marketplace to do. There's no harm in it per se, or it's understandable that they're doing it even if there is maybe some harm in it for you. And in some cases, they've

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raised hundreds of thousands or even millions, or in Cleo's case, close to a billion dollars of money that is largely going towards business development work.

There's a role in a lot of these companies that maybe you haven't heard of before, that's called the chief revenue officer. It used to be that there would be a chief marketing officer or an SVP of sales. The CRO is kind of the new version of this. They're all similar roles, but this revenue-generating capacity is sort of a maturing discipline, and there are very proven tactics that work in the realm of marketing and biz dev and branding and all the rest that will get your attention.

And so the thing you need to be thinking about is how susceptible are you going to be to that attention hacking. And I'll say it again, when you have a clear sense of what you're trying to do with your law practice, with your business, what are the specific sorts of tasks you need to improve your workflows around? What is the information that you have? What's the data that you have about your workflows and how you're utilizing your finite capacity? Then you can be intentional about how you want to use new technology or new tools or process improvement or training or anything that's going to improve the work that you're already doing.

But again, what these CROs are trying to do, and other marketing endeavors is they know that most lawyers and law firms, and not just legal businesses; businesses in general, don't always have that clear sense of direction. They don't always have a documented set of mission, vision, values, goals, strategies, etc. And so they're a lot more susceptible to this FOMO-style messaging.

They're susceptible to this, "Hey, we can 10x your business, we can drive more leads, we can get you more revenue." All of these promises that are frankly really attractive for obvious reasons. But when we know more about our business, when we've got the strategies, when we've got the data that's

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helping us understand whether we're on track with those strategies to meeting our goals and the goals that will help us fulfill our mission, then we really are going to sort of lack that rudder, lack that ballast that helps inoculate us against these marketing tools.

So then the other thing, and this is sort of what I led off the episode with, is yes, there's all that marketing and attention hacking. You know this already. There's apps that are trying to hack your attention, there's news that's trying to hack your attention, there's politicians that are trying to hack your attention. Marketing is just one of these things.

But the other problem that comes into play, and this is the thing that I really did start to notice about myself. And I will fully admit, I am using generative AI for more and more things inside of my own practice. And I'm using it in the context of recording some of my intake calls and using it to generate notes and ideas. I'm doing it on calls with some of my coaching clients with permission, of course, but to get summaries and action items and things.

And I've done my research as far as the data privacy and the security. I hate that phrase, "I've done my research," but you know what I mean, I have really dived into this idea of making sure, as best as I can, that the tools that I'm using are not creating risk for my business, not creating risk for my client's business. I'm using them always with permission, so hopefully they are also doing the thinking about this.

I'm obviously checking all of the work closely to make sure that the AI isn't making stuff up, which it absolutely does make stuff up. So I'm trying to catch it. It's trying to make sure that I'm checking it when it does make things up. But it also has made certain parts of my business more efficient and go faster. And because the use of these tools is still fairly new to me personally, I'm having a harder time gauging my own capacity.

And I've kind of found myself back in this place where my eyes are bigger than my stomach and I'm overcommitting relative to my kind of newly

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enhanced capacity, my augmented capacity using these technology tools. My brain basically wants to think that my augmented capacity is going to be bigger than it is, and therefore I've let too much onto my plate again. This is a normal optimism bias human thing.

And so what I'm engaged in right now is trying to do a better job of cautioning myself, keeping track of my own commitments, generating feedback loops so that I get back to making sure that I'm not getting overcommitted and therefore behind on my delivery, which if you're one of those people that I'm behind on delivery on, I apologize. I recognize it and I'm doing my best to dig out of it and get caught back up.

But I've actually seen this a little bit with some of my clients where they're starting to think bigger picture about how they can use not just technology, but their work with me in terms of process improvement and training, everything else to try to improve the capacity of their own practice. But what they have a tendency then to want to do is say, "Well, I'm going to gauge my intake of new work to what I want my capacity to be as opposed to anchoring it to what my current capacity actually is."

And so part of what I'm always trying to do with my clients, with all of you, is to achieve a balance between capacity and demand and not let too much new work come in on the demand side to the point that it overwhelms our capacity and our ability to deliver that work in a smooth and predictable way.

The other thing I think we need to be a little bit careful about is when sort of whatever it was, ChatGPT 3.5, I think, first kind of burst onto the scene a couple of years ago, it was pretty revolutionary. It was sort of this phase shift where all of a sudden generative AI had gotten noticeably better, and it was a little bit more of a revolution than an evolution, and it caused all of us to start thinking bigger, thinking differently about what this tool and this set of tools was going to be able to deliver in the not too distant future.

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And it's still pretty wild. I mean, it is really, really effective in a lot of places. But I don't think that the current pace of change is quite as revolutionary as it was when these tools first burst back onto the scene.

And so we tend to think, and frankly, a lot of the marketers are pushing the idea that we're going to get these giant leaps in productivity from generative AI, and we should just get used to this even more accelerated pace of change. But I don't think the reality is quite reflecting that, and Cal Newport actually agrees with me.

So Cal Newport, you've heard I talked about him with Jonah Perlin. You know if you've listened to me for any length of time that I am a fan. And in his newsletter a few weeks ago, it was late May, he took on specifically this notion that agentic AI. This having AI agents that are going to replace entire sets of complex tasks across different systems or different domains of activity so that, for example, you could just have an AI that is sort of trained on how you like to answer emails or how you like to schedule meetings. And you don't actually have to do any of the work at all. The AI will just do it all for you and then you will magically get to inbox zero.

There's sort of similar notions specific to legal around maybe processing discovery requests or doing client intake work where there's a lot of promise around the potential of these AI agents to do the work. And I don't want to say it's wrong because there are some great uses of AI agents out there already too.

And if you look up Adam Long, he has a great Substack where he talks about this a lot. Tom Martin from Lawdroid talks about this a lot. There are some good AI agent use cases. But what Cal Newport is getting at is they're not really taking over completely in the way that it was promised. The use cases tend to be too dynamic, the level of complexity a little bit too high.

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And so, yes, we can get agents to do the tasks, but they're not doing them quite the way that we would do them personally. And I think it's going to be a while before we get there. I'm not saying we won't get there, but we're certainly not there now, and I think the rate of change is slowing down.

He also talks about, we're at GPT-4. We were supposed to be doing a GPT-5 by now. And the idea was that by training the tool on larger and larger data sets, we would get these continual exponential gains in the usefulness and effectiveness of the tool. And as Newport points out, that just hasn't happened.

And in fact, OpenAI specifically has pulled back from their promises around GPT-5, and they've got all these funny sort of incremental improvements around GPT-4.0 and 4-aught, and I don't even, can't keep track of them all. It's actually become sort of this morass of different things. And where they're going is this training on very specific problems. We're not getting as rapid a gain, at least for now, on the overall AI ecosystem.

And so I think where we want to be is, yes, we should be paying attention to these tools. We should be paying attention to them in the context of what we need in our business. And, yeah, to some extent, should we be looking around the next corner, trying to see over the horizon to where our business can go as a result of these tools? Absolutely. But I still think that we shouldn't go too pie in the sky.

I think we want to keep things, having a vision but keeping it grounded in reality and making sure that we're doing things in the here and now using the tools of today to make these incremental improvements because really that's what the tools are sort of going back to. They're in a situation where they're going to be making incremental improvements as well.

And therefore, the risk of missing one or maybe not adopting one right out of the shoot, I don't think it's quite as big as our FOMO wants us to think it is, or as our sort of anxiety brains fear that it will be.

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And I'll repeat again the line from my friend Melissa Shanahan, "facts not feelings." And when you have a good process, when you have good systems, when you're measuring against those systems, when you've got both objective and subjective feedback loops from your team, from your customers, then you're going to be less likely to be in that sort of rudderless place. You're going to be able to adopt these tools more strategically.

Now, the other thing I will admit to, and this is, while I'm doing a confessional episode, this is very much a situation of the cobbler having holes in their shoes. As I got myself overloaded, and partly that was because of this FOMO thing or whatever. Partly it's just because I've had some life events that have come up that have taken a bunch of my capacity lately. And I've been a little slower at delivery than I like to be, than I promise to be, than I hope to be. And so I've been in this place of overwhelm that I'm digging out of.

And the thing that I'll admit to is I got away from using my own Kanban board. And it was a mistake. I understand why it happened. I try like mad not to let it happen, but frankly, especially because I am a small team, it's just me and an assistant. And so we can communicate a lot of things not using the Kanban board, and I can hold a lot of my practice in my head. It's not so big that I 100% need the Kanban board. And when I get into this overwhelmed place, I start to maybe feel like keeping the board updated is this administrative burden.

And that's true. It does take some work to keep the cards on a Kanban board updated, to keep the tasks up to date, to make sure things are getting checked off. It takes time to do that. But that administrative work, that little bit of overhead is actually really, really, really valuable. And that's because it is my Kanban board where my WIP limits exist, my work in process limits. And my work in process limits are there to help me do a couple of things.

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Number one, it gives me this visual look into where my bottlenecks are, and of course, I'm a small shop, so my bottlenecks are with me, but I can see what type of work is getting stuck. And then it's also because of those WIP limits, the Kanban board is the manifestation of my finite capacity. I'm using WIP limits on the board to help prevent me from overcommitting.

And the thing that I've noticed is that as I get away from my Kanban board and I'm working just inside of my own head, then the optimism bias starts to take over. And I start to be going on feel and not on the feedback and the data that I get from the Kanban board.

And so they say that all models are wrong, but some are useful. The Kanban board it's just a model of my workflow, and if I build one with you, it's just a model of your workflow. I sometimes say that it's a visual fiction. But it's a visual fiction that contains a lot of truth and a lot of fact about how the work is flowing through your board, what your capacity is, where the bottlenecks are, etc., etc.

So if you're using a Kanban board, I understand that it's not always fun to keep it updated. I get the impulse to want to just move on to the next delivery thing and not actually keep the board updated. And this is true of whatever project management or productivity system you are using. It's not just with Kanban boards. But I really am going to encourage you, and I'm encouraging myself, to stick with these tools. Because again, they provide a scaffolding that helps protect us from our own lesser instincts.

All right, so two takeaways from today. Number one, be intentional about what you're trying to accomplish, your mission, your goals, your strategies, and that's going to help inoculate you from the chief revenue officers of the world, the attention hackers of the world, the marketing people who are trying to attract your attention to pay attention to the things that they want you to pay attention to instead of the things that you know that you should be paying attention to.

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Number two is to really make sure that you're honest about your current capacity as it exists with the tools that you're using. And yes, those tools might be getting better. Yes, you might be adopting new tools that add to your capacity. But you've really got to have that feedback loop and that sort of objective manifestation of what your capacity is. And of course, I'm a big fan of using Kanban boards for that, but there's other ways you can do it as well.

All right, that's it for this week. A couple of quick plugs. If you are thinking about developing a better strategy, doing some strategic planning for your law firm, I will remind you again about my book, *The Agile Attorney Pocket Guide to Law Firm Strategic Planning*. You can get a copy of that for free still at agileattorney.com/sps. It used to be called *The Strategic Planning Shortcut*, so that's what those initials are for.

Also, if you want to talk about strategic planning, if you want to talk about Kanban, Kanban boards, Kanban-based systems, or just law firm productivity in general, by all means, set up a discovery call with me, and you can find out how to do that at my website at agileattorney.com.

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