

Ep #81: Task Engines in Law: Why Some Cases Sabotage Your Firm's Productivity



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Last week on the podcast, I introduced the concept of task engines and I warned you about technology tools that can serve as task engines and overwhelm the available capacity of your law practice. But frankly, I've been seeing task engines in a lot of places lately. And this week, I'm going to tell you about a law firm that discovered that a relatively new and exciting new business line was potentially sabotaging their overall productivity. They had no idea that these case types were task engines until it was almost too late.

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Hey everyone, welcome back. So, last week, I introduced a concept that is new to the podcast at least. It's something I've been thinking about for at least a year now, and that's the concept of this idea of task engines. And I first came across that term in the Cal Newport book, *Slow Productivity*, which you all know I'm a fan of, and his specific call to action, or really his caution, to beware of the types of projects that he considers to be task engines.

And I talked about this a little bit last week and I encourage you to go back and listen to that episode if you didn't catch it. But here is the high-level overview. Basically, a task engine is a particular type of project that tends to generate a high volume of tasks or commitments for the individual contributors who make up the project team relative to productivity benefit or the creation of deliverables in the project itself.

And the example that Cal Newport uses is like being on faculty committees where there's lots and lots of discussions about things but not often a lot of tangible outcomes that come out of those discussions. And he contrasts it

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with the work that he likes to do into deeper research and his book writing and things like that. But there's lots of other places where this idea of task engines comes up.

And I will say, there's no bright line, right? It's all relative. It's about when you're having this honest reckoning with your own capacity and therefore trying to be choosier in terms of what type of work you commit to. One of the lenses that you can use in figuring out, should I commit to this project or not, is, is it going to be a task engine or is it something where, yeah, I'm still going to be doing tasks, but I'm going to be making really tangible market progress towards whatever the goal or the outcome of the project happens to be.

So, last week, my caution around task engines had to do with technology tools. Certainly AI, but not just AI. Anything that is generating a high volume of tasks or other things that someone needs to do sort of relative to the output.

This week, I want to talk about other forms of task engines and specifically different case types or matter types or in this case, a jurisdictional choice that will impact how you are able to marshal the resources of your practice and it will have an impact on the management and the strategy and maybe even the product offerings of your law practice overall.

So, this specific example comes from a law firm here in Oregon. They are a litigation boutique and they are a multi-jurisdictional practice. They've got at least one core attorney who, in addition to being licensed in Oregon, also is licensed and also has experience up in Washington State. And for the particular type of work they do, they are really well tapped into the market. They've got a marketing funnel and a sales function that is working pretty well. They've got no trouble finding, attracting, and signing up new clients for their particular specialty.

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And one of the challenges in a situation like that, of course, is that they want to make hay while the sun is shining, right? They want to make sure that while demand is strong, they're taking on as many of those cases as they possibly can because they stand to make good money off of those cases. And that is understandable.

But it's also the source of kind of a red flag for me, which is in these situations where for most practice areas, and I say this a lot, right? For most of you out there practicing in most geographies, there is probably more demand for the type of work that you do than you have the supply or the capacity of availability that you need in order to take on that work. And obviously not every practice area is this way, but in my experience at least, it is more often the case than not.

And in situations like that, it's really easy to put your law practice up over your natural carrying capacity, right? We want to be able to help people, we want to be wanted, we want to be able to do this work and capitalize on the potential revenue from this work. It all makes sense.

But as I say over and over and over again, if you make too many commitments relative to your capacity, that is a recipe for overwhelm. It's a recipe for gridlock. It's a recipe for dropped balls, missed deadlines, and the other sort of quality problems that we're all worried about when it comes to running a law practice.

So, just in general, we really do have to be intentional about what our personal capacity is, what the capacity of our team is, and how that rolls up to the capacity of our firm, so that we make sure that we're limiting our commitments to take up only an appropriate amount of that capacity and not overloading the entire system or even simple parts of the system.

So, with this firm in particular, especially because they're now multi-jurisdictional, there's been a pretty significant amount of demand

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coming into the practice for clients or matters that exist in Washington State as well as the demand that they already have in Oregon.

And for those of you that don't know Pacific Northwest geography, Washington State is kind of barely just a stone's throw from where I'm sitting right now in Portland. The Columbia River divides Oregon and Washington, so it's not uncommon for Portland area firms to have a Washington presence and for Southern Washington firms to have an Oregon presence.

And one of the things about this firm, because there is so much demand for what they do, they've actually been really intentional over the last six to nine months about adding new people to their team, adding capacity to their firm. Some of them experienced attorneys, so kind of a mix of more experienced attorneys and maybe some younger, earlier stage associates, because they want two things, right?

One, they want to be able to take on more of this demand. Number two, there's this one partner, this one who is the experienced one in Washington State, that really is the bottleneck in a lot of the cases that they're running. There's just sort of too much work running through this one person.

And so, one of the reasons that they hired the more experienced attorneys is to be able to put other people into these quality assurance and quality review roles and also to be able to send them off into court, into trial, into depositions and have confidence that they've got the education but also the skills and experience to be able to handle those things well.

On top of that, they've added a couple of paralegals and other support staff members. So this is really a thriving, growing law practice. Everything that most of us are looking for.

And as they've grown, as they've added that capacity, they've also spent a lot of time working on division of labor and quality standards, definitions of

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done, and other various process improvement work and policies and ideas to help make sure that, number one, even though they're probably still over capacity, that they're using systems that give them more visibility into the work that they have, and that's through the use of Kanban boards.

And number two, that there's less opportunity for work to get stuck at various stages in their system because it's waiting on that one resource that might otherwise be doing other things.

However, as they've taken on that new personnel capacity and as they've taken on new cases to try to fill up the buckets of those new people, one of the things that they kind of missed and failed to recognize, and this is normal, right, this is natural, it's not a failure per se. But it is something that they're now sort of taking stock of, and that's that the newly acquired attorneys, the newly hired attorneys don't have experience in Washington State.

Now, a couple of them are actually licensed there. They're members of the Washington Bar, but they're relatively new members. So even though they're technically allowed to practice in Washington, they don't have the nuanced familiarity with the local rules, the local court rules, and all the other weird little differences that any of you that have multi-state practice know, it's just stuff you got to keep track of.

And so, what wound up happening is that this senior attorney, one of the partners in the firm, the one that has historically been the bottleneck, had been doing a really good job of getting himself out of that bottleneck spot and making good progress. But all of a sudden he got slammed with a bunch of work on a handful of cases that were all Washington State cases.

And I think what happened is the firm had gotten in the habit of delegating more and more of the prep work to these newer attorneys, new to the firm attorneys. And on the Oregon cases, it was going great. They had familiarity, they were quick to do the prep work, and the prep work was

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really up to the expected standard for the senior attorney when it comes to Oregon law, Oregon procedure.

And then, as a few more of these Washington cases came up, they kind of assumed that it would go similarly smoothly. But the firm missed the reality that these new attorneys weren't as familiar with Washington as they were with Oregon. They assumed it would go equally smoothly, but they just didn't have the muscle memory around it.

There were too many unknown unknowns, maybe some local customs and things that were hard to wrap their heads around. And so, they were prepping these cases in the time that they had, but the cases weren't getting prepped to the level of quality needed to actually be able to get these things off, in this case, to trial. And there were multiple cases that came to trial within the same month-long period.

And so all of a sudden, they're in this situation where the senior attorney is right back in the middle of these cases and he just got slammed. Middle of summer, supposed to be a quiet time, and he had anything but a quiet couple of weeks. Just running flat out, trying to prepare these cases for trial, realizing some things that have been missed and scrambling to catch up on those.

And then there are also all these sort of natural psychological functions that once you see an error or some problems in one part of a case, you feel like you've got to go back through the whole darn thing with a fine-tooth comb and figure out what else might be missing.

And that takes a bunch of time as well, even if there's nothing else missing, right? Doing that work requires a lot of effort, a lot of cognitive load, psychological load. And you know, you get into this mode where you feel like I can't trust anything anymore. And that's a very natural human thing, but it's a really expensive one from an effort perspective.

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And the thing that I think happened relative to the topic of this podcast is that unbeknownst to the firm, they were taking on a too high percentage of Washington State cases because those Washington cases were, in fact, task engines, at least for the less experienced workers that were taking them on for, you know, maybe the first handful of times in their careers.

And that's especially true, you know, like I said at the top of the episode, the task engine thing is relative. So relative to the Oregon cases, the Washington cases were a task engine. They required more work, more effort, pieces of research, and other things that just had to do with getting up to speed as opposed to being able to do the thing that you're really comfortable with and just kind of set them up and knock them down as far as the activities that need to get accomplished.

It also turned out that they'd done a lot less work documenting the policies and procedures and having resources available for doing the work on those Washington cases. So, in terms of knowledge base, in terms of tools and templates, the Oregon stuff is pretty robust, but the Washington stuff was a lot thinner. And so again, tasks that were relatively simple and smooth and had good policies and procedures in Oregon did not go smoothly and did not necessarily have good quality standards in Washington.

One other little potential part of the problem, and I don't know for sure whether this is true or not, but because the senior attorney really is still the quality assurance phase for lots and lots and lots of cases, he was still kind of overloaded himself. And so, when it came to doing the quality review work on the Washington cases, it maybe took longer to do that quality assurance work.

And by the time he dove into it and actually wrapped his head around the fact that, oh, there actually are some problems in this thing, they were in diving catch mode, right? So he couldn't then send it back to his junior attorneys in order to get them to redo the work and bring it up to standard.

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He felt like he had to sort of take the whole thing onto his own plate and get it to that quality standard himself, which is why, again, he was running that sort of flat out for a couple of weeks.

So, the good news is, you know, the firm made it through, the cases got handled well. None of it actually had an impact on the client outcome, client experience, but it did create a pretty bad experience for some of the members of the team, including one of the owners of the firm. And that's obviously something that nobody is keen to do again if they can avoid it.

So, what can we do to avoid it? Well, one of the things, and I've talked about this in other episodes as well, is to establish something of a quota system, right? Which is effectively a practice-wide WIP limit. How many cases can we comfortably handle at a time and at what point are we overloaded relative to our capacity?

And the quota system in this case probably needs to have some sort of a weighting in it because what we've realized is that at least for now, until, number one, the members of the team get more experience in Washington, and number two, we get our systems and policies and procedures and templates up to speed in Washington, that Washington cases actually count for more effort relative to our firm's capacity than the Oregon cases do.

And that's not to say that they should just stop taking Washington cases. That's not a good solution either. But they need to meter the number of Washington cases and keep it to a reasonable amount relative to the total case load, so that, number one, they're not in the situation where, you know, people are having to make diving catches across multiple Washington cases in the same kind of two-week period, which is no fun.

But also, we actually want the team and the team members to be able to build those resources as they go. You know, the best time to do a lot of the process improvement work is when you're in the middle of that particular process. And you have to have a little bit of slack in your system, a little bit

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of spare capacity to be able to do some of those documentation steps, to be able to take this thing that you just drafted and turn it into a template as opposed to just sort of putting it in a work product folder and you're going to like copy-paste from it sometime down the road.

I have no doubt that over time, and probably not even that long a span of time, this firm is going to develop the right systems and experience to be able to be every bit as effective in Washington State and efficient in Washington State as they are in Oregon. But for now, Washington is a task engine relative to Oregon when it comes to these litigation matters.

Now, this particular example obviously has to do with jurisdiction and local rules and things like that, but there are lots of other sort of choices you can make in terms of the work you accept into your practice where you can kind of use this lens of which one is going to be simpler and which one is going to be more of a task engine.

And that might be divorces relative to premarital agreements. I know a lot of family law firms that are trying to do more of the upfront work and maybe less of the dispute-oriented work. It might be certain types of divorces. Everyone likes amicable divorces. Well, most people like the amicable divorces, the more straightforward stuff. The big knock-down, drag-out fights, they tend to be task engines. They might be very revenue-generating task engines, but they're task engines nonetheless.

It could be probates versus estate plans. It could be different flavors of visa in the immigration practice. You know, it goes on and on, but you can think about how you can really, number one, assess the total capacity of your firm, and then number two, try to set some quotas or some balance around what sorts of cases should I put into the mix to make sure that I'm not putting the practice overall over that capacity.

While I'm on this topic of case selection, and this is a little bit adjacent to the task engine thing, but going back a couple of weeks to my conversation

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with Danielle Hendon, one of the things that I think is also worth noting in your case selection criteria is what is the cash flow potential of various cases?

In an estate planning and probate law firm, especially those that are using flat fees for estate planning, those estate planning matters will often have a better cash flow potential than probates will because, number one, it's often again flat fee, the money comes in up front. Number two, you can invest in processes and systems and templates to accelerate the flow of that work and therefore, you're accelerating the recognition of revenue.

The timeline, even short of all that stuff, is relatively short overall, right? Most people are able to get estate plans completely finished inside of a couple, three months. So, on a flat fee basis, the cash flow is relatively quick versus a probate, which, you know, is more on the order of like nine to 18 months or trust administration can be even longer than that.

And then probates in particular, depending on your jurisdiction and depending on local rules, and I know there's lots of differences here, but it's not uncommon for probate to be the kind of practice area where you can't collect any money until after the probate is complete. You've got to petition the court.

And so, it means that probate practice in those jurisdictions is a little bit more of an agriculture model where you have to invest up front in preparing the field and buying the seed and tending and irrigating the crop and you don't make money until the very end when you harvest it.

Now, that can be a really profitable model, right? When you're just looking at profitability, it might look okay. And it often is with probate, which is why firms will do it, but it is more challenging from a cash flow perspective. So, understanding your number story as Danielle Hendon pointed out can be a good way to establish your selection criteria, establish some quotas for

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your case mix, and therefore find the right balance between different profit models, different revenue models, different time frames, etc.

But the main thing I want you to take away from this episode is to sort of think in terms of task engines. Think about what are the kinds of work or the kinds of client that are generating a high volume of activity inside of your practice without feeling as productive or without generating the return on investment in terms of how the work is moving forward. What's the progress we're making? What are the deliverables we're able to get out the door?

Obviously, one of the things that I try to do in the process improvement work I do with my client is to help those teams figure out how to reduce the total number of tasks, how to minimize handoffs, and eventually accelerate the flow of work. Overall, we're looking to simplify the system so that these things that might be task engines currently become less and less so over time.

And really, one of the things we want to do is make sure that we're preserving part of our firm's capacity to do the process work, to do the workflow improvement work, to do the systems building work so that these new practice areas or these just task-intensive practice areas, we've kind of dialed them in so that they are less and less of a task engine type of matter or project.

And this might be internal projects as well. We are not limiting this to our client-facing work. There's all kinds of things that are going on inside of your practice, whether it's billing, whether it's your onboarding and technology or training or whatever else, that could easily be task engines as well. And so we want to not commit to too many of those types of projects at the same time and make sure we're preserving capacity to do the process improvement work for those things if we want to keep on doing them. Also, we can just stop doing them in some cases.

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That's it for now on task engines. If you have any questions about avoiding task engines in your law practice, about getting your processes and systems and tools in place so that things that are currently task engines become easier to work with and aren't throwing off quite so much effort relative to their value, or really anything else having to do with process improvement or legal operations, you can reach out to me at john.grant@agileattorney.com or look for the Work with Me link on my website to set up a call.

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