Ep #83: Delivery Debt is as Bad as Financial Debt, and Your Law Practice May Be Drowning in It

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With Your Host

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As we approach fall here in the Northern Hemisphere and what for many firms is the start of a busy season, now is the perfect time to make sure you and your practice have the capacity to take on the right kind of work for you and your team. But you can't do that if your practice is already full of existing commitments that you haven't delivered on yet.

Today, I'm going to revisit the concept of what I call delivery debt. All of those promises you've made to clients, to partners, and probably even to yourself, that are still hanging over your head unfinished. And just like financial debt, when you take on too much of it, it starts to snowball and it can overwhelm your entire system with problems.

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Hey everyone, welcome back. So, this is going to be another quicker episode this week, but I want to continue to focus on my goal for you, which is to not let yourself and your practice get overwhelmed or overloaded once the sort of busy season of the fall starts to ramp up and summer starts to wind down.

And just to set the stage, I'm assuming that you and your practice are like a lot of the practices I work with where you have more work than you know what to do with. You've got so many different things going on inside of your practice that you feel like you're juggling balls, you feel like you're fighting fires, you're worried things are going to fall through the cracks.

And, you know, that's no way to live your life. I've been there. I'm actually a little bit there myself right now. It happens, but I want to make sure that you've got the tools to be able to, number one, dig yourself out of it.

Number two, make sure that you're doing things to help prevent yourself from getting into it in the first place.

And it all starts with the thing I talk about all the time, which is the honest reckoning with capacity, right? You only have a finite amount of time, attention, energy, focus, etc., to spend on things in general, and your work life is only one part of that. And then your firm overall also has a finite capacity, right, that's made up of the various capacities of the people and tools that work inside of it.

Now, once you recognize that you have a finite capacity, there's a few things that need to happen, right? And I talk a lot about the brutal assessment of priorities that is often the flip side of that honest reckon with capacity. I'm not going to go down that particular path right now. What I want to talk about instead is how you're letting things into that capacity, right? What are the things that you allow to take up your time, attention, energy, resources, etc.?

And I've talked in the past about the need to balance your demand with your capacity, but that actually is a little bit of a clumsy phrasing, or maybe it doesn't capture the detail, the nuance that I really mean to convey. And so I'm going to unpack it a little bit more today and suggest that there are a couple of things you need to consider when assessing how your capacity is being taken up.

The first one, and the most important one, is to assess what are your existing commitments inside of that capacity. What are the things that you have committed yourself, your firm, your practice to actually delivering before you even consider any possible new things that are coming in?

And the thing about these existing commitments, it's easy to just think of them as to-do items or maybe promises or cases to manage, whatever it happens to be. But when you really recognize that your capacity for delivering work is finite, each of these commitments that you already have, right? Matters that you're working on, promises that you've made to clients, to partners, to maybe vendors, even maybe to yourself, right? Things that you want to accomplish inside of your firm.

So long as those commitments haven't been delivered on, they actually represent what I tend to think of as a form of debt, and I've called this in the past delivery debt. And you can go back to episode 56. I did a deep dive on this, and I've talked about it in a few other episodes as well.

But the main thing to keep in mind for today is sort of regardless of whether you've been paid upfront, whether you hope to get paid at the completion of the matter, or whether you're getting paid by sending hourly bills on a monthly basis all along the way, that's all well and good in terms of the financial arrangement. But when you make a promise to a client to handle their matter, you're generally promising to handle it all the way through to the end.

And so that commitment represents this delivery debt that I talk about where you owe them something, right? They're going to owe you money. They may owe you things other than money, right? They also are resources on the project sometimes. But you're going to have to allocate a certain amount of your personal capacity and your firm's capacity to resolving that debt, to satisfying the debt, to actually deliver the thing that you committed to delivering.

And just like with financial debt, we don't want to take on too much of it because it can tend to snowball, it can tend to overwhelm us, it can tend to collide with itself. And all of these various commitments, these forms of delivery debt that you have, they get harder and harder to deliver on the more total debt that you have inside of your system. And if you're in that place where you're feeling overwhelmed, if you're feeling overloaded, your team is feeling overwhelmed or overloaded, it very likely means that you have made too many commitments relative to your capacity.

And so that means a couple of things are going to have to be true inside of that finite capacity. Number one, delivering on some of those commitments is going to take longer than you meant for it to, maybe longer than you promised, certainly longer than you would like it to.

And that in and of itself represents a problem because holding that debt inside of your system, that delivery debt, actually has a carrying cost. It accrues a form of interest. Again, it's not financial interest, but it still accumulates time and energy and effort in terms of keeping track of that matter, in terms of rebooting your brain around what's going on with that matter, in terms of holding it open in your system overall and just sort of doing all the little things that you have to do to manage it.

It has this other set of problems when the timeline gets longer than you meant for it to be, which is sometimes your sort of enthusiasm for that commitment starts to wane. Maybe the person that you made the commitment to, and again, this might be the client, it might be someone else, but their enthusiasm starts to wane as well.

And I can't really express it more than saying there is both a practical cost, but there's also this sort of psychic or psychological, social, emotional cost to having all of these uncompleted promises, these unfulfilled commitments hanging over you, the sword of Damocles, right? That is just making you feel this larger existential dread.

We balance that with the other component of work or maybe potential work that could be taking up your capacity, which is upstream of commitments, you have demand. And there are multiple sources of demand. Obviously, clients who want to hire you to do the particular type of legal work that you do, that is an important source of demand.

We want to make sure that we are managing our capacity so that we can continue to bring in that new work that is being demanded of us. Not demanded in the sort of objective sense, but demand in the marketing sense.

But there are other forms of demand as well. And that's all of the things that I've talked about these last few episodes, sort of the FOMO around AI, around technology tools, things that you feel like you should be doing to improve your law practice. And that's a form of demand as well, right?

Any goal that you set for yourself, any KPIs or OKRs, and I know that's kind of alphabet soup for those of you that aren't familiar with them, but either way, right, we are putting pressure on ourselves, and that is a form of demand. We feel like we should be improving our document automation, updating our templates, improving our marketing, doing more and more and more.

And if we let those things move from the realm of demand into actual commitments, then it's going to continue to basically form part of this bundle of delivery debt that we have that is leading to the overwhelm in our own heads, but also in our practice overall.

And so the clarification that I started a minute ago that I want to finish now is instead of balancing your demand with your capacity, because demand will almost always exceed your capacity, right? It's just sort of human that we have more options of things that we could be working on than we have the time and energy to work on. What I want you to think about instead is balancing your commitments with your capacity and to be really intentional that you are not committing yourself, committing your team to more work than you can reasonably deliver in a given time period.

So how do we do that? So I want to go all the way back to episode 5 where I first introduced the concept of close the closable. And basically what I mean by that is I want you to resolve some of your existing commitments so that you're not carrying that delivery debt anymore. And this is the metaphor I use all the time. If your bathtub is overflowing, yes, we need to work on clearing the drain, but the first thing we've got to do is slow down the tap. We've got to figure out how to create more space and give ourselves the time and energy to create that space inside of our systems.

And so when we go through to close the closable, right? To actually sort of clear that drain, get some of the work out, the two main things we can do, number one, is just deliver some stuff. Anything that is close to being done in your overall process, get it done. Spend the time, close it out, close the file, send the disengagement letter, get that last bill out, but get it completely done.

Don't just let it be in this, well, I need to close it, but it's not as important, it's not as urgent as these other new matters that are coming in. You've got to preserve and allocate some of your capacity to getting these almost done matters completely done so that you're not carrying the administrative overhead of tracking and worrying and sort of having it inside of your systems. You need to get it all the way across the done line.

Number two is you probably have sub-commitments inside of the larger commitments that you've made. So you're committing to finishing a matter, but that matter is made up of individual deliverables along the way. And oftentimes, when you produce one of those deliverables, you are also sort of putting the matter into a sort of natural resting state is how I phrase it.

When you get a draft out to the client for review, when you get a letter over to opposing counsel, when you make a court filing, you're not completely done with the matter obviously at that point, but you do at least buy yourself a little bit of time while some other person is doing what they need to do on that matter.

So, number one, if you can get a matter all the way closed, that's great because now you're not carrying any administrative overhead at all on it anymore. Number two, if you can figure out what you can do to deliver some interstitial piece of work to get it to that natural resting state, do that.

And really go through your matters and figure out what is the next actionable task that we have, right, to use the getting things done phrasing? What is the set of tasks that we can commit ourselves to in the short term that will at least move this matter to the next mile post, to the next phase of work, whatever it happens to be so that we buy ourselves a little bit of time on that matter in particular.

Number three, the third way to sort of get yourself out from under the burden of all of your existing commitments is to find places where you can de-commit from things. Maybe there are matters where you're waiting on the client to do something and you've been nagging them and nagging them and nagging them and they just don't respond.

Kick them out. Disengage. Get rid of that matter. It's just causing you overhead. It is taking up this valuable space inside of your practice, a part of your finite capacity, and you keep wasting it on these little administrative things for a client that just isn't engaged with solving their own problem.

And if you can find ways to get rid of those matters, I highly, highly encourage you to do it. It's a little bit like cleaning up the shop, right? Getting rid of the clutter, see what you can dump entirely and buy back some of your capacity or get back some of your capacity by way of doing that house cleaning.

I also want you to think about these commitments you've made to yourself. Maybe it's operational, maybe it's goals that you set at the beginning of the year where you were full of hope and aspiration, and you thought, yeah, we're going to do this, this, and this to really get the practice humming this year. But then you found that you don't really have the time and energy and capacity to devote to making significant progress on all of those goals.

And it's funny, I listened to one of these other, sort of maybe a competitor of mine, but legal operations, law firm management podcasts, and the host was really adamant that now that we've hit summertime, it's time to look back at the goals that you set at the beginning of the year and figure out where you're falling short and then, you know, really dig deep and scramble and hustle so that you make sure that you hit all of the goals by the end of the year that you set for yourself six, seven, eight months ago now.

I want to give you another option, which is look at those goals, look at those hopes that you had back in December, January, six, eight months ago, and realize that now, knowing what you know today, which of those goals, which of those hopes can you just say, you know what? My eyes were bigger than my plate, or my eyes were bigger than my stomach, and I just can't do that, right? Realistically, we don't have the capacity to do that, or we have to preserve our capacity to do these other things.

This kind of leads back to this brutal assessment of priorities that I talked about. I want you to re-prioritize. I want you to make sure that you're not carrying a form of delivery debt to yourself or to your past self.

This person that existed with all of this optimism back at the beginning of the year, they didn't know what you know now, and it is okay to look back at those goals, to look back at those hopes, and say, you know what, ain't going to do this one. I am going to really focus on this one thing or these one or two things, and that way I'm not going to continue to feel the sort of psychic pressure, this debt to myself, this delivery debt that makes me feel like I've got this sword of Damocles hanging over my head once again.

So all of those suggestions are about getting work out of your system, right? Get it done, de-commit, or at least get it to a natural resting state. I also want you to think about that stage-gate where demand actually becomes a commitment.

So at what point does someone saying, "Hey, I want your time and attention." And again, that could be clients, that could be technology companies, that could be marketing companies, that could be law practice management consultants like me, where we say, "Yeah, we think that you should adopt X, Y, and Z platform." But it's going to take your time and attention to do that.

I want you to create some stage-gates and some actual criteria that will help you better understand when you are committing to work and being intentional about those commitments as opposed to just sort of letting stuff in that is going to take up your finite capacity and become a commitment without you being really intentional about what that commitment represents.

And there's a few ways to do this, right? You can narrow your focus in terms of your matter types that you take in. You can narrow your focus in terms of the types of clients you want to work with, the types of projects you want to take on that aren't client work inside of your practice. Right, this all comes back to intentionality and being really clear on what that capacity is.

But one of the best things that I think you can do, and this goes back to all the stuff I talked about in episode 21 where I talked about Laura's journey, I want you to come up with a number that represents your capacity to do client-facing work. And the easiest way to probably do that is come up with a maximum case count. How many cases can you actually handle at a time?

And I'm not talking about how many cases can you stuff into your system, like what will it hold. I'm talking about how many matters can you have going and be able to work those matters in a way that you are regularly and consistently meeting your delivery commitments for that matter. So if our goal is to get all of our certain type of estate planning work done within six weeks of the client engaging with us, how many can we reasonably carry in order to deliver on that six-week turnaround time, right? That six-week service level expectation.

If you've got a litigation or criminal defense practice where you're going to have to make regular court appearances, how many cases can you reasonably carry and not have those court dates collide with each other?

And how do we sequence the timing of the work that we let in so that our court dates aren't colliding with each other?

Again, it's never perfect, right? You can't control it minute to minute, but we want to make sure that we are not letting so much work into our system that these collisions become frequent, that they become inevitable. We want to make sure that we're preserving space, we're preserving slack so that we are able to be proactive on these matters as opposed to being reactive to the deadlines or to the other sort of outside stimulus that will always come in.

Now, in Laura's case, if you remember from that episode, or if you go back and listen to that episode, you'll realize that not all cases are created equal. And so what Laura wound up doing was creating a weighted case count where she said, "Okay, there's our typical type of case that counts for one," but then there's these other things that she referred to as red files that are particularly sticky, particularly problematic.

And I don't remember off the top of my head whether she counted those as two or three, but they were a bigger amount of commitment, a bigger type of commitment for her firm. And so she weighted them heavier.

And so when she was going for this total case count, and again, I forget what the number she came up with was. I think it was like 50, and I think she started up in the 70s. And the total weighted case count was too darn high.

And she, over the course of not that long, right? This took only about two or three months to really get dialed in, was able to say, "If our maximum carrying capacity is 50, and that's 50 on a weighted basis, then I need to be really intentional about what new work I let into my system, what new commitments I make, what new delivery debts I take on for my clients, for my customers, so that I can make sure that I'm preserving enough of my existing capacity to deliver on the promises that I've already made to my existing clients and customers."

It's a little bit counterintuitive, but we know from Little's Law that this works. There's lots of examples that I can point you to where by taking on fewer overall commitments at once, you will deliver on those commitments faster, which means over a stretch of time, right, a couple of months, six months, a year, you will actually handle more total matters by doing fewer matters at once.

And that's good for you and your practice from a revenue standpoint. It's certainly good for you and your practice from a overall stress standpoint. By carrying fewer things, being able to make good progress on them, being able to feel good about the progress that you're making, you're going to have a way happier life, a way happier team, those feelings of progress will feel better, and those feelings of overwhelm will become less and less frequent.

So just a very quick recap. Number one, honest reckon with capacity, your capacity is finite. It has a quantity, and when you go over that quantity, you get into trouble. Number two, you're probably over that quantity already. You probably already have too many commitments relative to your capacity, and so you need to spend some time as soon as possible, cleaning out those existing commitments. Satisfying those debts, delivering on the work that you've promised to other people or to yourself.

Or when possible, de-commit, just get rid of it. It is okay to give up on some things in order to preserve your sanity, in order to preserve your capacity to be able to do work the way that you want to be able to do it.

And then number three, be more intentional about what you're allowing into your capacity. Don't commit to the wrong things. The wrong things could be, again, wrong types of cases, wrong types of clients. It could be the types of projects that are task engines that I've talked about a couple episodes ago.

Whatever it means, I want you to be really clear that when I say okay, I will do X, Y, and Z, whether that's a matter, whether that's a project, whether that's a volunteer work, you name it, I want you to be intentional that, "Oh my gosh, this is going to have to take up some of my capacity. Therefore, I need to really assess whether it is something, number one, that I can reasonably do, and number two, that I really want to do or that the firm really wants to do."

Okay, not as quick as I thought. Obviously, I'm very passionate about this stuff. If you want to talk about how to be more honest about your capacity and set better standards for how you let work into your capacity, feel free to reach out to me. You can reach me at john.grant@agileattorney.com or find all different ways to get in touch with me at my website. 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.