

Ep #88: Why This Firm Stopped Chasing Clients- and Got More Done



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John E. Grant

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In today's episode, I'm going to share a genuine client success story that might just change the way you think about the delivery of the legal work inside of your law practice. And I talk about what happens when a law firm stops chasing unresponsive clients and starts treating their workflow a little bit more like a nightclub, right? No new matters get in until old ones go out. And in this case, the results were staggering. This team more than doubled their typical monthly throughput, their delivery of done work in August, which is a month that is usually really slow.

So, in today's episode, I'm going to break down exactly what they did, why it worked, and how you can use some of these same concepts and mindsets to get more done in your practice and relieve some of the burden on your team.

You're listening to the *Agile Attorney Podcast*, powered by Agile Attorney Consulting and Greenline Legal. 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, I have a success story that I want to share, at least an emerging success story. I'm pretty excited about what I'm seeing in the data for this particular client. And I'm going to start by doing something a little bit risky over an audio medium, which is I'm going to describe a graph to you. And I will say this is a real graph with a real law firm, a client of mine. It's a transactional practice. I'm not going to say what practice area because I think it actually applies in a lot of different transactional style practices.

But the key thing or one of the key things about this particular workflow that I'm about to describe is that it doesn't have a lot of external dependencies, right? So it's not necessarily dependent on a court or an agency or even sort of third-party providers to do a lot of the work. This is really between

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the lawyer and the client in order to get the information needed to do a particular thing. And then the lawyer does their work and then checks it and delivers it back to the client. And that is sort of the whole of the workflow. So, relatively simple. I know it doesn't necessarily apply to all of you who are listening, but I still think there's lessons to be learned from this type of thing based on this success that I'm seeing so far.

The other thing that I will do just by way of background is describe this graph to you a little bit. What are we measuring? And this is stuff that one of the tenants of the Kanban methodology is to improve your feedback loops. And one of the best ways, maybe not the best first way, but certainly one of the things that I recommend and work with my clients is to start to gather data. I am a big fan of data. I think data is important. I don't think data is the end-all be-all. I think that subjective measures can be really effective, especially in the early going of adopting some of these practices and some of these methods.

But what the data does is really help you validate those subjective feelings that you're having. And sometimes it confirms what you're feeling, sometimes it tells a story that's different than what you're feeling. And that's useful too, and we want to unpack that. And so, I'll give a quick plug for the email series that I have that you can sign up for on my website, which is The Agile Attorney Bootcamp, where I actually go pretty deep into the main data points that I like to measure when I'm getting sort of an intermediate step in this agile journey or this Kanban journey. It's not the first thing we want to do, but it is something we want to work towards pretty quickly.

This particular graph that I'm looking at is generated by the online Kanban tool that this firm uses, and it's one of the reasons that I like these Kanban-specific tools. But there's nothing necessarily magical about it. You probably have this information in your practice management system. Depending on what tool you're using, it may or may not be easy to actually get that data out, but it's probably in there. So, there's really four things that

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we're measuring on a monthly basis with this particular chart. So, the first one is the number of new cases that are started by this firm. And by started, I mean these are commitments. This has gone beyond the sales and marketing pipeline and has made it into the delivery pipeline. Whatever that commitment point is, signing engagement letter, fee agreement paid, strategy session set up, wherever your particular definition of commitment lies. For this firm, it's these new cases that start the workflow.

Then, of course, we have the bookend to that, which is how many cases did we finish? Did we get off of our board, in this case, right, because we're using a Kanban board, but out of our system. We've delivered the final deliverable to the client. And for this particular matter, which again, is a relatively simplistic matter type, we are now done. We don't have to continue to work on it. We can move on to doing other work for other clients.

The third thing we've got, and this is a bar graph, right? So I'm seeing all these things aligned next to each other, not stacked, but lined up, is the total number of active open cases for this particular workflow. In the Kanban world, we would call this WIP, work in progress. But open matters, open cases, in-progress cases, whatever you want to call it, it doesn't matter. It's stuff that you've made a commitment for, but you haven't delivered it yet. And that's an important number having to do with Little's Law and all sorts of things.

And then the last thing we can see on this graph, and it's actually, this is kind of two graphs smushed together, but we've got a trend line that represents cycle time. So, what is the average duration it takes to get a matter from that commitment point to that close-out point, that done column on the Kanban board.

So here's the risky part. I am going to read this graph to you. And I think you'll find it interesting. So I'm going to go back to December of last year.

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And this particular firm started seven new matters. They finished 13. So December being a little bit of a quiet period, they could sort of close the books on a few things. And they had a total work in progress or in-flight cases of 55. So that sort of gives you a sense of where they were for carrying capacity.

I should pause for a minute. We've been collecting data on this firm for several years now, and that 55 actually is a vast improvement over years past. It used to be that they would be carrying well over 100 active cases at once. And so, a lot of the work we've done in terms of these ideas around close the closable and manage work in process has really been effective for this firm over the years. But they still wanted to do some things to increase their throughput. And so that's what I'm going to describe. So, seven new cases, 13 cases out.

In January, that flipped, right? Demand started picking up. They had 14 new cases, and they got seven out. So that would tell you that the work in progress has grown. They actually have now 58 active matters. And you'll notice that those numbers don't line up. I'll come back to that in a minute, right? So, some cases came in and some cases closed, but the work in progress didn't grow quite as quickly. And that is part of where the benefit for this firm comes in.

So, moving into February, demand really picked up. We started 20 new cases, we closed 16. In March, we started 22 new cases, we closed 7. So, as you can imagine, the in-flight cases are starting to grow now. We've got 77 in March. In April, we started 26 cases, we closed 16. Now we've got all of a sudden 88 cases in flight. So, this WIP is starting to grow. The other thing that happens, and this is a result of Little's Law, is as that WIP grows, it's a little bit of a lagging indicator, but that cycle time is starting to inch up as well. So, the amount of time it takes us to deliver any one case goes up the more cases we're carrying in our system overall.

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Now, at the end of May, we actually did a full-day workshop with this team. So, I went down to their practice, to their firm. They blocked off their schedules for 6 hours, and we holed up in a conference room, and we did a workshop about how to improve the throughput in this particular practice. The owner of the firm was feeling fine, okay about it, but just frustrated that they weren't able to deliver more work to clients. She was doing okay, but she felt like things should be better. And so, we did this workshop to try to make things better. And we came to some agreements as a team. And if you listened to last week's episode about how to roll things out, I'm a big believer that we don't do these sorts of things to the team, we do these things with the team. And so, we got some really great ideas and we got some buy-in about what are some things we can try to do? What are some experiments we can run to see if we can improve the throughput of this practice?

Now, most of the things we talked about in May, we couldn't just implement right away, right? They needed a little bit of work, they needed some massaging, they needed some design. And so, June's numbers were pretty similar to what's been going on in the rest of the year, right? 16 new cases started, 13 cases closed. Not bad, right? We're still on average, but we haven't really implemented or sort of taken advantage of what we talked about in this workshop yet.

Then in July, we started to make a couple of the improvements that we talked about. We didn't get too, too deep, but we actually did start to see some improvements. So, in July, we closed 21 matters, right? I'm flipping over, so I'm talking about the done column first this time. We opened 24 new matters, but we closed 21. And that was definitely the best throughput month we'd had all year, which is interesting because summer is usually a little bit slower period. If we look at historical graphs for this practice, it tends to slow down in the summer, mostly because people are on vacation. So you don't have as many resources available. Same thing happened. It's

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not that people didn't take vacation, but we still were able to get 21 matters closed in July, which was great, big improvement.

However, it pales in comparison to what happened in August. In August, this team got 40 matters done. So again, we're bopping around in the neighborhood of maybe 12 to 16 on average, month after month, some of them as low as like 6 or 7 or 8. And then all of a sudden in August, we have closed 40 of these matters, right? A big, big jump. Not only that, we've brought in 41. Now, one of the things that we talked about back in this May workshop was implementing sort of a nightclub policy, which is to say no new matters come in until old matters go off.

So, we established that we were going to have a strong sort of total WIP limit on the board in this workflow and that we wouldn't just let new matters come in unless older matters also left. And so, by implementing that policy, we actually had a little bit of motivation for the team to close matters because they wanted to bring new matters in, but they weren't allowed to until they closed the old ones. So, that's one of the first takeaways, right? This nightclub policy, first in first out, balancing commitment with capacity. Right? I've talked about all these things in the past, but this firm hadn't really implemented it until I think we started in July, but it really sort of kicked in August. And I will tell you, as I record this, we're only about halfway through September, but the trend is that September, it may not be quite as strong as August, but it's going to be pretty darn close.

So, I want to give you that as the first takeaway. If nothing else, right? And if you go all the way back to the episode where I talked about Laura's story, and that's Episode 21, we sort of dove into this idea of managing commitments with capacity. And the title of the episode is, "You can't scale your way out of a sustainability problem," right? So it was about making things sustainable first and then starting to introduce or even deciding if you wanted to scale from there.

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Now, there were actually three other things that came out of that May workshop that we as a team decided to implement. Two of them were implemented in this July-August timeframe. So I think that's what we're seeing as impacting this growth in throughput. There's one other one that was implemented in sort of late August, but really the impacts shouldn't be showing up on the graphs yet. So I'm excited to see where it goes from there based on this fourth one. And I'll talk about that in a minute.

Well, actually, I will talk about it now because it impacts the second thing we did. So, the last thing that we've implemented, at least, is this clarification of the client journey. So, we were really clear as we sort of talked about the workflow, how are we going to communicate the various stages of work to the client in order to engage in road mapping, navigation, setting clear milestones, things that the client needs to do at various stages, things that we're going to do at various stages. I'm going to talk more about this in an upcoming episode. I've actually been working with a great person who does communications for law firms. So, communications design, and I'm excited to sort of bring that to you later, but I'm not going to go deep on it right now.

The key thing, and the reason I actually decided to bring that forward, is that by describing the client journey, right, what is the road map through the lens of our customer, it actually helped us with the second thing, which was simplifying the stages, the columns on this team's Kanban board. So again, this is a team that's been using Kanban for a long time. They had evolved into a structure of their board that had gotten kind of complicated and nuanced. And one of the things that we came to realize was that the more complex structure of the board that we had developed, which we all did it for good reasons, right?

It wasn't like we just wantonly came up with this really confusing structure. It evolved over time, but the thing that came out of that more complex structure is that it created places for matters to get stuck. It created places

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for work to hide. So even though it was visible in the board, because of the complexity of the board, it was sort of hiding progress or allowing progress to stall because certain matters were getting stuck in these weird little sort of hidey holes is what I was calling them.

And so, I'm actually going to sort of encapsulate that. My second and third takeaways for you, number one, is that a lot can be gained from simplifying your model, your vision, your description of what the value stream looks like, right? That's ultimately what we're talking about. But I like to do, and this is the third thing, is to describe the value stream not through the lens of what are you doing, but how is the client experiencing it, right? What is the customer journey? And that's going to give you a really powerful way to try to structure your own delivery process so that you're meeting the milestones that you want to commit to on the customer journey.

Now, the fourth thing that we did, and this is the thing that I actually think made the most impact on the team's ability to deliver more work in August, is because we had now defined the customer journey and because we had gained some clarity for ourselves about, okay, at this stage, we need the client to do A, B, and C so that we can do X, Y, and Z. We realized that a pretty significant amount of the firm's capacity was taken up by following up on that client homework, right? Getting the client to give you, maybe they've given you A but not B and C. Maybe they haven't given you anything at all. Maybe they've given you B and C but not A, right? And all of that tracking and processing and nagging that you have to do to wrangle the things from the client, it was taking up a pretty significant part of the team's overall capacity.

And it's funny. So, in this workshop, one of the things that emerged was we all were sort of badly singing or humming bars to the Nick Lowe song, "Cruel to be Kind." And it was a room full of enough Gen Xers that was a thing that resonated for the younger folks that were in the room. They'd probably heard it on an oldie's channel or something. But whatever it is,

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right? You got to be cruel to be kind in the right measure, right? That part came up as well.

But the idea was, and this gets back to the client journey, we tried to change and message the expectation of you, we're not going to do our parts until you've delivered your parts, number one. Number two, if you don't deliver your parts within a certain amount of time, we're just going to drop you all together. And that's not to say we won't ever do this work for you, but we're going to take you out of the active working and we're going to basically archive your matter, at least in the short term, until you decide you're actually ready to do this work.

Now, before we got to that part, we actually sort of came to a collective decision that we are not going to be the firm anymore, right? Going forward, we want to sort of change our mindset from the firm that works on these legal matters to the firm that finishes these legal matters, right? We're not the firm that works on your thing, we're the firm that gets your thing done. And that's part of the client communication going forward. And again, this is only just being rolled out. So, the clients that are getting this messaging are still in the very early parts of the workflow with this practice, but I still think the mindset of the team began to change when we came to this understanding, this agreement together that we're really going to focus on finishing things and not just working on things.

The other thing that we talked about is this idea that we can't want it more than the client does. So, we're dependent on the client for certain information in order to do our work. Therefore, if the client doesn't care enough or isn't motivated or engaged enough to get us that information, it's not necessarily our job to beg and plead and follow up ad infinitum in order to get it, right?

And I think historically, the members, at least a significant number of the members of this team, really felt like they needed to work with the client

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and give them a lot of time, give them a lot of grace, that their lives are busy, they've got other things going on. And it's a totally understandable attitude, but it was resulting in these incredible delays, not for everybody, but for enough of the clients in the system that it was holding up a significant amount of work.

And so, what we actually did was implement a lot of the things that I talked about back in Episode 55, which is about fixing the client homework bottleneck. And I encourage you to go back and listen to that episode in full because I think there's a lot of really good stuff in there. But I'll recap the specific things we did with this team.

Number one, we really clarified the messaging around client homework. So, we took it from this a little bit more generalized thing, or we would sort of engage in a little bit, and I'm using we to talk about the work with this firm. So, the firm would engage in a little bit of fence chucking where they'd say, "Okay, these are all the things we need." And they sort of write an email, maybe they talked about it on the phone or in a meeting with the client, but they really sort of put the whole thing over on the client to accomplish. And then they kind of said, "Get it to us when you can," right? They didn't really give in the sort of old way of working a clear expectation about when this work was needed.

And so, number one, what we did, and I'm realizing I'm giving you a lot of numbered lists, but hopefully you're following along here, we clarified what the homework was. We made it really clear, we boiled it down to a punch list, a checkbox, a checklist, something that the client can really sort of understand what is the scope of work that I'm being asked to provide, to deliver.

Number two, we gave the client a deadline, and it was a relatively short one. And so, we've decided that we want clients, this firm wants clients to get their homework back in a week or less. And so, they're really trying to

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accelerate the rate at which the work comes back to them so that things just don't get stale, right? My memory of what the client talked about, what their goals are doesn't start to fade. The client's engagement and enthusiasm for doing this work doesn't start to fade. So, we're really trying to compress the timeline by giving the client a relatively short deadline.

Number three, we're communicating to the client that if they miss this deadline, we are not going to keep following up with them, right? So we're changing the expectation from one of like, "Yeah, we're going to keep bugging you. You've put this on our plate, and it's now our job to follow up and try to coerce this information out of you." We're saying, "No, that's not how we're going to work anymore. We're going to ask you, we're going to be really clear, we're going to be really definitive about what we need and when we need it. And then if you don't deliver, we're going to give you sort of one pass.

So we're going to follow up with you and we're going to give you an extended deadline and we're even going to give you an ability to negotiate that deadline," right? So if we give you a deadline and you're like, "You know what, I'm leaving on a cruise or I've got a really busy week at work or whatever it happens to be, can I deliver it by 10 days or 14 days?" We're going to say yes, no problem. But we're going to start with that shorter deadline and then give the client the opportunity to negotiate a change. We're not going to leave it open-ended from the beginning and then try to work it from there.

And then the last thing, and I think this is the one that requires kind of a real gut check, a swallow hard, some fortitude, and frankly, some leadership, right? So, the owner of this firm was really, really on board with this change. And that's what made it effective, is that if the client doesn't respond after that second check-in, we're going to drop them. We're going to get them off the board. We're not going to keep following up over and over and over again.

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Now, this is a firm that is not starving for work, not by any stretch, right? They've got more demand than they know what to do with. And they're having to meter their on-ramp so that they're not committing to more work than they can deliver. But the intake pipeline, the sales and marketing pipeline is strong.

So they're in a position where they're not necessarily afraid of letting some work go even though we've already committed, even though we've already invested, right? In this client, in starting this relationship, we're trying not to get hung up on the sunk cost fallacy, which is, "Hey, we've invested in this and now we're stuck with it." Right? No, we're saying, "Look, we're not going to keep throwing good resources after bad." And in this case, good capacity after bad, right? Our time and energy and the tracking cost, the administrative overhead it takes to just hold this matter open in our systems, right? We're going to put it aside.

And we're not going to say, "Hey, we're kicking you to the curb, you're gone forever," but there's a very specific message that we've developed that basically says, "It sounds like you're not actually interested in doing this work right now. No problem. We're here when you need us, but you're going to have to start back over at the beginning of the process," right? We're not going to let you just come right in because after a certain amount of time elapses, we don't know if the information we have or the things that we started are actually the right things for you right now anyway.

Now, when clients get that second message, there are two things that happen. Some of them, and I think this is actually the majority, and this actually explains some of the increase in the throughput in August, they say, "No, no, no, I actually need this. I want this right now. I'm so sorry. I got busy. I didn't know that it was this important. I'll get it to you right now," and they do, right? And so they sort of get religion or they get understanding about, yeah, we're serious about moving this thing through. We're not just going to pamper you. We're not going to coddle you through

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the process. We're going to care for you, right? But we're going to be a little bit cruel to be kind. We're going to get you through this process. We're not just going to work on it with you.

However, some of them just don't. And that's okay because the firm drops them. And they are now no longer continuing to invest time, energy, capacity in that particular client, which means that the resources of the team are now free to work on the matters that are actually moving forward, that do have engaged clients. And that, I think, is a big part of the key, right? We're converting some of the capacity that's been used on this tracking, this administration, this sort of non-value-adding overhead or low value adding at least, right? We're just nagging people, and that's not a great use of our energy. And instead, we're using that capacity on the actual delivery work.

I'm going to leave it at that for now. There's actually a lot of takeaways or at least potential takeaways from this episode. Getting some measurements, using some objective data, ideally graphing it, right, which is another way of sort of using visual storytelling to understand what's going on inside of your practice. And so, if you want to learn more about how to do that graphing or collect and understand that data, I really encourage you to go sign up for The Agile Attorney Bootcamp, the email course that sort of goes through those data points. And there'll be a link in the show notes, or if you just Google Agile Attorney Bootcamp, it should come up on my website.

Number two, if you can adopt some form of this nightclub policy for your own practice, I really encourage you to do it. Regardless of what practice area you're in, right? It works in litigation practices. It's a little different, right? Litigation, there's a lot of work that gets stuck in discovery, there's different phases. But you still have a total carrying capacity. And I think trying to zero in on what that is or what that should be is an important step.

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And so, you can go back and listen to Episode 21 where I talk about Laura's story, but whatever it is, right, no new work should come into your system, especially if you're already feeling overloaded. Right? You're probably already over capacity today. And so, you may even want to work on getting some percentage of your work out the door before you even open up the in door again, right, the entrance.

Number three, and yeah, there's maybe a lot to this, but really understanding your value stream, right, the phases of how you deliver valuable work product, valuable deliverables to your client through the lens of the client can be a really powerful tool for, number one, improving your internal workflows, maybe simplifying, maybe complexifying where you need to, but making sure that you're actually hitting the milestones that you think you should be hitting.

Number two, communicating that to the client. And as part of that, communicating to the client that they are actually part of the delivery team, right? You can't do your part unless they fulfill their role beforehand. And so making sure that they're engaged in the outcome of the legal matter as opposed to just being served by you, right? They need to do certain things in order for you to be able to do your work.

Okay, be sure to check the show notes for this episode. I think there's going to be a lot in that one because I've covered a lot. And those show notes are produced by the fantastic team at Digital Freedom Productions, who helps me with all sorts of production support on this podcast. And as always, our theme music is "Hello" by Lunara. Thanks for listening, and I will catch you again next week.