

## Ep #105: The Counterintuitive Solution To Getting More Work Done [Agile Lawyering Part 5]



### Full Episode Transcript

With Your Host

**John E. Grant**

[The Agile Attorney](#) with John E. Grant

## Ep #105: The Counterintuitive Solution To Getting More Work Done [Agile Lawyering Part 5]

In today's episode, I'm going to recommend and give you permission to do some things that are probably going to make you a little uncomfortable. They run counter to much of the conventional wisdom around managing a law practice, to the extent that there historically aren't great tools or systems to support them, although there are some hacks and you can do all of them on your own.

But I'll warn you that they may feel counterintuitive, maybe even wrong, at least at first. But I'm also going to back up these recommendations with data, real numbers that illustrate how adopting these uncomfortable recommendations will actually lead to faster delivery, happier clients, and more work getting done in your law practice.

So even if your gut tells you that what you're about to hear sounds like bad advice, I'm asking you to give it a chance because the results speak for themselves.

You're listening to *The Agile Attorney Podcast*, powered by GreenLine. 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.

A quick note. The concepts I'm going to talk about today should be useful to you no matter what kind of law practice you're part of or what tools you use. If you'd like, stay tuned at the very end where I will briefly discuss how my software tool GreenLine helps support and reinforce the Agile practices from today's episode.

Hey everyone, welcome back. So, hopefully you've been following along with this Agile Attorney 101 series. And if you haven't heard episodes 101 through 104, this one will still give you something useful, but it builds on concepts from those earlier episodes. So, check them out when you can.

## **Ep #105: The Counterintuitive Solution To Getting More Work Done [Agile Lawyering Part 5]**

For the last two episodes, I've been focused on how to establish consistent and predictable flow in your law practice, especially your legal services delivery pipeline. In episode 103, I talked about obstacles to flow and work that is just stuck waiting for something, bottlenecks, delivery debt, and why delegation isn't the panacea that some people make it out to be.

And then in episode 104, I focused on the role of a couple of high-level quality standards: the definition of ready and the definition of done, and how they prevent backflow and prevent rework, also prevent pre-work and other types of turbulence in your law practice. And this isn't just about work getting stuck but having it literally go backwards or getting done in the wrong order.

And I actually ended that episode with something of a tease because up until now, I've been cautioning you against focusing on speed or efficiency without the right guardrails in place. But then I positioned effective quality standards as that first round of those guardrails, helping you achieve better consistency and predictably for the work inside of your practice.

But there's one more thing that's going to prevent you from picking up speed in the flow of work. Even if you have the good guardrails on your highway, if the roadway itself is clogged with too much traffic, then speed just isn't realistic. So getting rid of that congestion is our topic for today.

And I'm actually going to start by going all the way back to episode 102 and that holy crap moment I described when you put work and make it visual on your Kanban board and then you go, oh my gosh, this is so much work, what am I going to do? And finding and addressing the bottlenecks and setting those definitions of done and ready are definitely going to help get the flow of work going, but we still have to do something about all that clutter that is leading to that holy crap realization.

And I'm actually going to switch metaphors in a moment from traffic on a freeway to a cluttered room in your home. And the thing I'm getting to is

## Ep #105: The Counterintuitive Solution To Getting More Work Done [Agile Lawyering Part 5]

that even if work can technically move forward under your definition of done, there's still this problem where the sheer volume of open matters and half-finished commitments, basically all that delivery debt creates its own kind of friction and drag.

So at that point, the problem isn't organization, it's accumulation, which means the next move isn't to rearrange things or make better lists, we've got to decide what actually belongs in the room or in your law practice at all. So here I want to reintroduce a tool from sort of the general zeitgeist that some of you might remember from a few years back, or a few episodes back if you're a regular listener. And that's the book *The Life-Changing Magic of Tidying Up* by Marie Kondo.

For those of you who maybe missed that particular cultural touchstone, the basic premise behind Marie Kondo's method is this. Let's say you're trying to tidy up a bedroom or a closet or really any room in your home. The first thing you do in the Kondo method is to take all of the clothes or other things out of the closet and pile them up in the middle of the floor.

Now if that sounds familiar, it's pretty similar to the advice I gave you back in episode 102 to make things visible. And I don't think it is a coincidence that the Kondo method and the Kanban method are both Japanese. Either way, I like it because it recognizes that we shouldn't be guessing about what we're up against. We shouldn't be deluding ourselves about how much we've accumulated, and we especially don't want to be hiding from things or having things hide from us. We want to get all of that work out and make it visible. We have to contend with it.

Then in the Kondo method, once you've got everything out there on the floor where you can see it, she calls for you to pick up each item of clothing or each object in the room one by one and actually hold it up or hold it close to yourself. Then she wants you to appreciate whatever role that thing has played in your life in the past. But then ask the key question, does the thing spark joy for me right now? Is it worth considering to hold a place

## **Ep #105: The Counterintuitive Solution To Getting More Work Done [Agile Lawyering Part 5]**

in the limited capacity of my home, or should I thank it for its service and then put it in the giveaway or the throwaway pile?

And today, I'm going to basically suggest that you do something very similar for the active cases inside your law practice. And obviously there are a few more considerations than simply whether the thing sparks joy. But I will say that if it doesn't spark joy, then it should at least be a candidate for getting rid of. The catchphrase I use with my law firm clients when urging them to sort through their open cases is this: close the closable. More on that in a minute.

But here's one of the key things to the Marie Kondo method. There are only two options for the things in your life: keep them or get rid of them. She specifically is not saying, well, if this thing sparks a little bit of joy or if it maybe sparked joy in the past, then maybe I should go pay a lot of money to put it in a storage unit so I can rent it monthly and keep it there so it's not in my personal space. That is not the method.

And besides, there is no storage unit for active legal work, although I will say a lot of teams I come across seem to pretend that there is. And there's actually even a specific kind of sneaky place where they often try to stash work and I'll tell you more about that in a minute.

But even when firms try that storage trick, it doesn't really work. The reality is that your cases are either taking up a chunk of your capacity or they're not. And if they're open cases inside of your firm, then if you're not spending some amount of capacity on them, then I would say you're probably violating your ethical duty of diligence.

So, in a moment, I'm going to walk you through a decision framework on how to identify the closable cases in your law practice and then quickly and confidently get them off your plate. But because the sunk cost fallacy is a very real, if flawed, human cognitive bias, I'm going to warn you right now that some of my suggestions may feel uncomfortable or even wrong at first.

## **Ep #105: The Counterintuitive Solution To Getting More Work Done [Agile Lawyering Part 5]**

And look, I get that we humans don't like to let go of things that we've already invested time and energy and money and emotion into. But we call it a fallacy for a reason. So I'm hoping you can put it aside and do what's actually right for your practice and even for the clients whose work you ultimately decide to let go.

So let's talk about what it means to close the closable. And remember, this is partly about tidying up and getting organized, but more than that, it's about strategic decisions that reclaim your and your team's capacity and reduce the overhead of tracking all of that work. And so when I say close the closable, there are three categories of things that I think you should be looking at.

The first and the best one is situations where a matter or a case that you're still holding on to in your practice is only mostly done. There's a big difference between mostly done and all done because mostly done is still slightly in progress. And you have to keep pumping air into it. All done or done done means you can get it off your plate and move on to other things.

So assuming you've made work visible on your Kanban board, the first thing I want you to do is look all the way on the right side of that board and identify the matters that are really close to done, but they need some final push to get them across the finish line. And I usually see a lot of work that meets this criteria in almost every law practice I look into. Maybe you need to send a disengagement letter, maybe you need to close the file in your practice management system, maybe there are one or two last administrative tasks or heaven forbid, you need to get that final bill out.

And I know that these tasks never feel urgent and that's exactly why they sit there. But here's the thing, every one of those almost-done matters is exacting a carrying cost on your finite capacity. It's a little like failing to sweep the shop floor at the end of a working shift. Miss it for a day and things might look a little dingy, but they're still manageable. Miss it for a week or a month and all that debris becomes a safety hazard.

## **Ep #105: The Counterintuitive Solution To Getting More Work Done [Agile Lawyering Part 5]**

And besides, when you get a matter all the way across that done line, three really good things happen. Number one, you get paid, or if you already got paid, then you close off the last lingering bit of delivery debt you're carrying that I talked about back in episode 103. You also close off any ambiguity from a legal ethics perspective about whether you are still representing that client, and that should count for something.

Second, everyone gets closure. Both you and your team and the client can stop thinking about that particular legal issue. There's value in the certainty of getting to a result and moving on even if it wasn't the perfect result, although hopefully it was.

Third, and most importantly from my nerdy legal operations and workflow perspective, you create space. You free up a chunk of your finite capacity that you can now safely and confidently use for other work. So I'm imploring you, one of the best things you can do for your workflow is to close those mostly done cases.

And that may mean that you've got to reserve a chunk of your finite capacity to do it. So I'm going to say, schedule a few hours every week, maybe half a day with your team if you've been really bad, and just bang them out. In fact, if you need to pause this podcast right now to schedule that time, then do it. But get those cases all the way to completely done so that everyone can move on to better things.

Now, the second category of closable work is matters where clients aren't holding up their end of the deal. And the most obvious example of this is when a client isn't paying you, and lawyers tend to be pretty good about dealing with that. We stop work, we withdraw, we protect ourselves.

But for some reason, we treat it completely differently when the client isn't paying attention instead of not paying money. Those are the cases where you've asked the client to provide documents or answer questions or make

## **Ep #105: The Counterintuitive Solution To Getting More Work Done [Agile Lawyering Part 5]**

a decision and they're just not doing it. The work has been sitting in that waiting on client state for weeks, maybe months.

And this is where you need to get really honest with yourself. If a client isn't engaged enough, mentally or emotionally, to get you what you need, then unless you're a public defender maybe, you can't want it more than they do. Now, I'm not saying you should immediately drop every case where a client is slow to respond. Obviously, that's not feasible.

But you do need to set up a fish or cut bait inflection point. Give the client a clear set of deliverables or expected actions and a firm due date. Let them know that you will need to withdraw from their work if they can't hold up their end of the deal. Then follow up once, maybe twice, but if they're still not engaging and doing their part, then a decision to cut them loose becomes obvious.

And again, this is the uncomfortable part. If that is a quote "good client" of yours, meaning they pay you a lot of money, then of course you're going to be tempted to let them off the hook or let them delay. But I'm telling you, there are actually good clients out there who both will pay you the money and respond and be engaged in the work that you do.

And you may not drop these guys eventually, or these people eventually, but I do think that you should be doing the work to go find those actually good clients and not chase after the people that are paying their bills but not actually doing the work.

And by the way, this is also the thing that law firms tend to treat as a storage unit. And there's this sort of funny mental game where they shift the blame for the work being stuck. They say, well, I gave it to the client and they haven't responded, so it isn't really our fault that the matter isn't making progress.

## **Ep #105: The Counterintuitive Solution To Getting More Work Done [Agile Lawyering Part 5]**

And frankly, I call baloney on that attitude. As I mentioned before, I think we have an ethical duty of diligence, also a duty of communication, and letting a matter languish even with a non-responsive client, I think is a breach of those duties, even if the bar maybe isn't going to come down hard on you for it.

I also get that emotionally this might feel a little like abandoning the client. But we have to be honest about the fact that you can't move forward without them and you can't keep carrying the administrative burden on their behalf if they're not actually helping the matter make the progress it needs to make.

I also think sometimes there is a little guilt involved here. Part of why we're reluctant to stop working for clients when they're not paying attention is that we're not confident that we did all we could do to inform, empower, or encourage them to do what they need to do. In other words, we're worried that it's our systems and not the client's personal failings that have fallen short. And in my experience, there's probably truth to that.

I'm actually going to talk more about how to solve for that problem in episode 108 in a few weeks. But for now, if the client is mentally or emotionally disengaged from helping move their matter forward and you've made a reasonable effort to re-engage them, then you need to be prepared to cut bait and move on to other work if they can't respond to your re-engagement efforts.

Now, the third category of closable work is work that you maybe shouldn't be doing in the first place or even work that you maybe thought you should be doing at one point, but you don't want to be doing anymore. This is where the Marie Kondo test comes back in. Does this work spark joy? Does it meet the qualification for the kind of work that you and your team should be doing, that you're good at doing, and that you want to be known for?

## **Ep #105: The Counterintuitive Solution To Getting More Work Done [Agile Lawyering Part 5]**

If the answer is no, either because it was the wrong type of work to begin with or maybe because something changed along the way, it is okay to decommit from that work. And obviously, that can be at a matter by matter level or a client by client level. It can also be entire practice areas. And I'm not saying that you should leave any individual client in the lurch.

Obviously, we have those ethical duties of diligence and communication, not to mention competence. But to the extent that you've got matters in your practice that you no longer want to be responsible for because they aren't working for you, it is okay to do what you need to do to get the client to a stable enough place that you can safely and ethically withdraw. You can say no and you can say no more.

So close the closable. It is such an important thing. It's really the thing that you can do in the short term to really help get your practice from that roiling boil of overwhelm down to more of a gentle simmer of competent completion. That place where you can comfortably, and usually that means predictably and consistently, keep on top of every single matter in your practice and make sure it's moving forward at an appropriate rate.

Now, once you've started to do that work, this next tool is what's going to help you prevent the practice from boiling over again in the future. And that tool is a WIP limit, and that is an initialism for Work In Progress limit, sometimes also called a capacity limit, or really just a cap on concurrent work in your practice.

And I'm literally just talking about counting cases. So once you've closed the closable, you've got it down to a level that feels a little bit more manageable, count up all the matters that you have and commit to not taking on more than that number of work. Don't let it rise back up. I actually think over time we're going to continue to shrink it down, but I'll start with just a cap.

## Ep #105: The Counterintuitive Solution To Getting More Work Done [Agile Lawyering Part 5]

Also, I understand that not all matters are the same size or the same complexity. We'll get to that eventually too. But for now, just a raw count is enough. If you really want to, you can come up with a weighted count of some sort.

Going back to last week's episode for a second, I want to explain that a WIP limit is really kind of a special kind of quality standard. And I keep talking about quality standards as guardrails that protect flow and prevent rework. And a WIP limit is a guardrail that protects your capacity. It's a policy that says we won't allow more than X number of active matters into our system at any given time. And we do it because that cap protects both our ability to produce quality legal work and our ability to deliver a quality client experience while we do that work.

And just like with definitions of ready and definitions of done, this isn't about being rigid or overly bureaucratic. It's about being honest. It's about creating the safety scaffolding that preserves the capacity that you and your team need to be effective. In a way, a WIP limit is really part of the definition of ready. You're saying that before the practice takes on a new piece of work, we have to affirmatively determine that we have the capacity right now to handle that work.

And this is the thing that cuts against the conventional wisdom, right? So much of the messaging we hear is about bringing on more cases, about doing more intake, about getting more leads. And frankly, having a WIP limit that you're comfortable with is a great way to inoculate yourself and your firm against all of that more messaging and growth hype because it's what allows you to say, oh, for our practice, this is what enough looks like.

And here's the thing, I hate all of that growth messaging because it's actually doing more harm than good. And I can prove this with some data.

And again, this is one of those counterintuitive things, but it is so important because when you limit the amount of concurrent work you're holding in

## **Ep #105: The Counterintuitive Solution To Getting More Work Done [Agile Lawyering Part 5]**

your practice, yes, you're handling fewer matters at once, but because those matters will get through to done faster, or at least to some natural resting state inside of your practice faster, it means that ultimately you're going to be able to do more work overall over a mid to long-term range of time.

So let me give you a recent example from a client I've been working with. And this is a transactional firm. I have seen the same thing happen in litigation practices, so this is not specific to transactional work. And basically, before we put the three basic quality standards in place, right? Definitions of ready, definitions of done, and a WIP limit, the average cycle time, and cycle time is a technical term, it means the time from when you start intake to when you close the matter.

So this firm's average cycle time for their transactional work was 95 days, just about three months. And their 85th percentile delivery time, which means 85% of their matters closed in under this time, was 192 days or just over six months.

Now, I did a workshop with this firm back in May, and the team agreed amongst themselves to put these quality standards in place. It took them a little while after we came to that agreement to get used to using them, but they caught on pretty quickly. And here was the impact.

For the second half of the year, their average cycle time on this matter type dropped from 95 days to 58 days, less than two months. That's a 40% improvement. And that 85th percentile number dropped from 192 days to 146 days. That's 25% faster for five out of every six matters the firm handles. And all things being equal, that is a demonstrably better client experience.

But here's the kicker. Before putting quality standards in place, including WIP limits, the team's average throughput, and that's the number of matters taken all the way to completion, was 20 matters per month. Then

## **Ep #105: The Counterintuitive Solution To Getting More Work Done [Agile Lawyering Part 5]**

for the last six months of last year, that average throughput jumped to 31 matters per month. That's a 55% improvement. Same team, same matter type, dramatically better results.

I want you to think back to two of those mantras that I repeated back in episode 101. Stop starting and start finishing. That's close the closable. Start less to finish more. That's WIP limits. I'm telling you, they work.

All right, so at this point, I know some of you are probably thinking, but if I start using WIP limits, won't that mean I'm saying no to new work? Won't that kill my business or sabotage my marketing? And I get the fear, but that's not what actually happens in practice. What you actually wind up saying is not right now.

Now, at first blush, you might also be thinking, well, that's not any better. But you're missing an important part of the puzzle. For that firm I just discussed, yes, they have a WIP limit. But if they know they can comfortably close 31 matters in a month, that means they can also comfortably open 31 new matters in that same month and still stay within their limit.

What's more, before the WIP limit, if they wanted to make a safe prediction on what the client's turnaround time would be, they'd have to say six months. And that's where that 85th percentile number comes in. In the operations world, we like to use that percentile for predictions. We basically don't want to bet on the average, that's like betting on a coin flip.

But for this team, after they put the WIP limit in place, they can confidently make a prediction that their cycle time is going to be closer to 4.5 months. So even if the client has to wait a week to get their matter started, and that frankly would be on the long end of things, they're still going to get their finished work six weeks faster than they would have before the WIP limit. So the net gain is still better than a month.

## Ep #105: The Counterintuitive Solution To Getting More Work Done [Agile Lawyering Part 5]

So in practice, the queue is so short that this firm doesn't even tell the client about it. They just build it into the client homework due date. And they can do that because the rest of the delivery work has become so much more consistent and predictable. There's those guardrails again. But conceptually, there's still a queue and that's important.

Back when I talked about bottleneck theory in episode 103 and frankly, in earlier episodes of this podcast too, I have intentionally left out one of the nerdier bits. But I'm going to give it to you now. And it's a technique called drum-buffer-rope. And I'm going to explain them in reverse order, and I'm actually going to save the drum part mostly for next week's episode because I want to give it its due. But the rope and the buffer are things I've actually already been talking about today.

The rope is the easiest one. And I need you to think about the entrance door to your law practice, not the physical door, but the metaphorical one that is represented by new matter intake. Then I want you to think about the exit door, again, the metaphorical one, where closed matters are going through it once they're completely done. Once you set a capacity limit on your practice, a WIP limit, then the rope ties the entrance door to the exit door. I sometimes refer to this as a popular nightclub policy. When the club is full, nobody new gets to go in until someone else leaves.

But of course, if you think about it, it isn't just nightclubs that do this. Your barber or hair salon does it. Your doctor or dentist does it. Your favorite restaurant does it. In fact, let's think about that restaurant for a moment.

There's probably a sign on the wall somewhere that says what the maximum capacity of the room is according to the local fire marshal. But is that the number of people the restaurant allows in there? Of course not. They're keeping other things in mind. They want to keep a good experience for their patrons. They don't want to overload their team, either the front of house staff or the kitchen crew.

## **Ep #105: The Counterintuitive Solution To Getting More Work Done [Agile Lawyering Part 5]**

So they almost certainly have a working capacity limit that is smaller than what the fire marshal says they can have. They also have a buffer system for dealing with the excess demand. So this is the buffer part. If the restaurant does walk-in or counter service, then the buffer is literally just the queue that lines up outside the building or in the lobby while people wait for a table to come available.

If the restaurant takes reservations, then the buffer system is a little more sophisticated, but the end result is the same. And maybe they use one of those newfangled buzzers or text messaging systems. All of them are just different forms of buffer.

Here's the key thing, people are willing to accept the buffer because they expect it. They know that it means that the restaurant itself is going to protect their experience once they actually get in the door. But for some reason, law practices don't like setting those expectations. They think that we just need to get started right away, that everything is urgent. And I get there are certain matter types where yes, there is urgency, but most of them are not that way.

And even if there are, there are often internal things that you can do inside of the different stages of your law practice to maybe get that intake done quickly, but then you can rest people at an internal buffer once things have calmed down a little bit and the emergency isn't quite so stark.

So in drum-buffer-rope, that's the rope and that's the buffer. The drum has to do with setting a regular cadence for doing specific types of work, things like those case closeout tasks that never really feel urgent from my close the closable part. And the drum is what prevents the vast majority of your work from getting to the point of being urgent, especially once you have the WIP limit and the rope and the buffer in place.

I want you to imagine that for a minute. You're running or working in a law practice where things very rarely rise to the level of being truly urgent. How

## **Ep #105: The Counterintuitive Solution To Getting More Work Done [Agile Lawyering Part 5]**

chill must that sound? But as I said, I'm going to go deeper into the importance of the drum next week.

All right, so there are a lot of things I discussed today that are actually a big part of the reason why my partners and I created GreenLine to begin with. But the big one is WIP limits. And as I hope I just illustrated, calling out and enforcing your finite capacity is one of the most powerful things you can do to improve the flow of work and increase the delivery capacity of your law practice.

And I've been teaching this for over a decade and during that time I've been an advisor or training partner to at least half a dozen different law practice operations or legal project management tools, including ones that use a Kanban interface to some extent for visualizing and managing work. And of course, I love that interface, but my next question to the companies is what about WIP limits? I've literally begged some of them to add WIP limit functionality to their tool, even if they just make it optional, and none of them will do it.

So it won't surprise you that GreenLine has pretty robust WIP limit options. You don't have to use them at all, but for all the reasons I just discussed, I really hope you will. And as part of our configuration and onboarding services, we'll actually help you determine an appropriate WIP limit that you can apply at a practice area level or at a workflow phase level, or both. And that can work really well to have both of them. We'll also help you set up specific buffer columns to manage those workflow queues that you'll need once you start practicing drum-buffer-rope in conjunction with the WIP limit.

We also have different levels of WIP limit enforcement and most firms start with just an informational limit. We won't actually block work from breaking the limit, but we'll definitely let you know when you're over. From there, we can progress to an "are you sure?" prompt before taking on that over-the-limit piece of work. And of course, we can go fully Draconian about it if you want and prevent you from actually starting new work until

## **Ep #105: The Counterintuitive Solution To Getting More Work Done [Agile Lawyering Part 5]**

some in-progress thing leaves. And each of these approaches has its merits and we'll help you determine which one is going to work best for you.

And as far as I know, GreenLine is the only legal workflow tool that takes your actual capacity into account. And we can do this both at an organizational level and also at an individual worker level. So to learn more and to see how GreenLine can work for you, head on over to [greenline.legal](https://greenline.legal) and look for that big green book a demo button.

All right, that's it for today. If you found today's episode useful, please help spread the word by sharing it with a colleague or a friend. And of course, to keep up with this 101 series, please hit that follow or subscribe button in your favorite podcast app. If you have thoughts or questions about today's episode or if you have topics you'd like to hear me discuss, please don't hesitate to reach out to me at [john.grant@greenline.legal](mailto:john.grant@greenline.legal).

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