Ep #110: Why Every Legal Matter Needs a Strategy Plan [Agile Lawyering Part 10]

Full Episode Transcript

With Your Host

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Legal work is some of the most consequential project management work I can think of. The timelines can be tricky, the information is sometimes incomplete, the other side might be actively working against you, and the stakes for the real human beings you're representing often couldn't be higher.

And yet, the legal industry has been reluctant to adopt proven project management concepts from the rest of the business world. And when something does break through, it tends to be the old school Waterfall approach. This idea that you can map out an entire plan up front and then execute it in sequence.

The tech industry started moving away from that model over 25 years ago because it turns out that approach only really works when you know everything you need to know right from the start. And in legal work, that's almost never the case. I came to law after nearly a decade in technology companies, managing projects and product development cycles.

And I've spent the biggest chunk of my career since then working out how to bring a better, more modern approach to project management into the practice of law. One that's built for uncertainty and learning and adaptation.

Today, I'm going to show you what that kind of approach looks like for managing an individual legal matter.

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 before I dive in. The concepts I'm talking about today should be useful to you no matter what kind of 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 this is the third episode in a row where I've been building on the client journey mapping concept I introduced back in episode 108. Last week, I talked about the consistency mechanisms and the operational infrastructure that help your practice reliably deliver that journey for any client across any matter. Today, I'm adding one more layer: specific techniques for building a detailed strategy plan for an individual client and their particular legal matter. Let's get into it.

I actually want to start with something that I've been observing repeatedly lately. Over the past few weeks, I've been spending time with several of my law firm clients in their weekly case planning meetings. And I love that they're having these meetings. If you've been following this series, you know how much I value that cadence. But something has become abundantly clear as I've sat in on those sessions.

Everyone, but especially the attorneys and especially the senior ones, is holding way too much information in their heads. I'm talking about core issues in the case that only the lead attorney maybe fully understands or it could be client preferences or concerns that came out of a phone call two weeks ago but never got written down anywhere. And often, it's the overall strategy for getting the matter to its resolution, if that strategy exists, but it often does only as a mental model in a particular lawyer's head.

And I keep seeing where different people have different ideas around the specific steps that are planned or in progress or even completed. And again, these are things that have been discussed, but they aren't really documented, or if they are, maybe it's in an email, which creates its own problems.

And here's the thing, these are good workers doing good work, running reasonably good meetings. The problem isn't effort or intention. The problem is that all of this critical information just stays stuck in individual brains instead of living somewhere that the whole team and you know maybe even the client can see and engage with. And this creates the same type of fragility problem I talked about last week at the practice level, but now playing out at the individual matter level.

If the lead attorney is out sick or gets pulled into another matter or simply has a busy week and drops a thread, the matter suffers. Not because anyone did anything wrong, but because the team isn't consistently using their systems to hold that information instead of relying on everybody's memory.

And for complex matters especially, disputes where the facts are still developing or transactions where the client's priorities might shift, really any matter where you are genuinely trying to build and improve your information around what's going on as you work up the file, that fragility gets compounded by something the Agile approach has always recognized about knowledge work. While we may have consistent steps for working a matter, most knowledge work situations aren't straight production problems. They're closer to puzzles.

The work isn't just about executing a predetermined plan. It's a series of knowledge discovery steps where each move is designed to improve your understanding of the situation so that the next decision gets made with better information than the last one. Which means you need somewhere to capture not just what you're doing, but what you know, what you believe, and what you're trying to learn. And that's exactly what a matter strategy plan is for.

It's been a while in this podcast since I've brought up the fact that I had a decade-long career in the tech industry before I became a lawyer, and much of it in operational roles that actually started in project management. And for as long as I've been working in the legal industry, I've been genuinely surprised at how ineffective we are at managing projects, especially compared to my former colleagues in high tech.

One big part of the problem, I think, is that people in legal keep trying to layer these rigid, old school project management techniques on top of legal work. And early in my consulting career, I had a really strong reaction to those attempts. I actually did kind of a lot of hating on the ABA book about legal project management because it spends 400 pages describing the exact techniques I had just watched the technology industry pivot away from.

And technology made that pivot precisely because the techniques they were using were too heavy, they were too rigid, and ultimately they weren't that effective for complex knowledge work.

A big part of why I started my Agile Attorney journey was to help legal teams adopt management strategies from Capital A Agile that were lighter weight, easier to stick with, and would actually achieve better results.

If I had to boil the difference down to one thing, it's this. Traditional project management treats case management primarily as a compliance problem. Especially in litigation, but in a lot of transactional work too, we tend to see the job largely as following the rules, meeting deadlines, hitting procedural requirements, staying on the right side of the court's schedule.

And yes, compliance matters. Matters fail when they go non-compliant. But when compliance becomes the primary driver, you end up with a rigid, disengaging approach to doing the actual work.

It also leads to project plans and matter plans that are actually unrealistic right from the start. Traditional project management, sometimes called Waterfall, asks you to build the complete plan up front and then execute it sequentially. The assumption is that if everyone just does their jobs, everything proceeds as planned. The problem is that by the time reality diverges from the plan, and it always does, you've already built so much structure around the original assumptions that course correcting is slow and painful and expensive.

What's always attracted me to Capital A Agile is that it reframes project management less as an inevitable march towards a predetermined result and more like a series of puzzles to solve in order to achieve a goal. There's actually an emerging distillation of this Agile approach that I've been really taken with lately from the excellent thinker and writer Radhika Dutt. And she was my guest on episode 98 of this podcast, if you want to go back and listen.

Radhika has framed this puzzle-solving approach in the context of overall business and product goals, but I think it's equally applicable to the context of individual case and matter strategy. And her framework is called OHLs: objectives, hypotheses, and learnings. Instead of starting with a definitive plan that takes a matter from A to Z, we start by acknowledging that we have imperfect information.

We sketch out a high-level plan based on what we know now, the objectives, what we're trying to achieve for the client, but we also build in that explicit recognition that the plan we develop on day one is rarely going to be sufficient to get us all the way to the end.

So we build in not just milestones along the way to the result, but specific efforts to learn more, to test our assumptions, to surface new information, and to make ourselves smarter. We actually want the plan to evolve and we do it recursively.

We start with a reasonable strategy based on what we know, make deliberate efforts to learn more, improve the strategy at the next checkpoint, then generate another set of learnings, improve again, and so on. The plan gets better as the matter progresses because we're designing it to do just that.

So that's the mindset behind the matter strategy plan that I'm about to describe to you. So what does this actually look like in practice? Let me walk you through what I think a matter strategy plan needs to contain. First, let me say that, like a project plan in the rest of the business world, the matter strategy plan needs to be an actual tangible document.

I don't care if it's a litigation plan, a deal strategy, an estate plan roadmap, and I don't care if it's a highly complex situation or a routine walk in the park. Whatever area of law you practice, I really want to see you implementing a written document that contains at least the high-level information I'm going to describe in a minute.

And especially at first, the primary audience for this document is going to be your team. It will be an internal working document, sort of a shared resource for the matter that lives somewhere everyone can see and contribute to rather than in any one person's head. But I'd encourage you to design it with a second audience in mind from the start: your client.

Because if you build it in a way that's legible and useful to your team, you're probably most of the way to something you can share with the client too. And as I'll explain in a minute, sharing a version of it with the client is one of the most powerful things you can do for that relationship.

So, again, here's what I like to see in a good matter strategy plan. And keep in mind, this is a living record, so at the outset of the matter, you want to do your best to capture things as best you can, but know that you'll be updating them as your information and understanding improve through the course of your work.

The first section should be mostly nuts and bolts and primarily about the people involved. Who's your client? What have they told you about their situation? What are their concerns and preferences as you understand them? And then anything else you know about them that's relevant to how you'll work together.

And although this wouldn't necessarily go into the client-facing version, you may also want to keep track of how needy they are, whether you tend to believe their version of the facts, and other caveats you want to keep track of.

Then on the other side, you want to put down what you know about the opposing party and in litigation or negotiations, opposing counsel. Obviously, include names and contact information, but again, you also want your observations about how they operate, what their likely position is, what their incentives might be, and how they're going to be to work with.

The second section of the plan is for client goals. What does your client actually want out of this matter? And obviously, this includes the particular outcome they've described to you, but it should also include the things that matter to them that might not be obvious from the legal issues alone.

As you all know, some of the most important client goals have little to do with the legal outcome. It might be about getting through this quickly or about maintaining confidentiality or preserving a relationship. Whatever it is, you need to know it and have it written down for the rest of the team too.

The third section has to do with the desired and likely outcomes. And this one's especially important in disputes, but it applies in transactional work too. What does your client's best case look like? What does the opposing party's best case look like? And then, what is the most realistic outcome given what you currently know about the situation?

And having those three reference points written down does something important because it creates an honest, shared understanding between you and the client and you and your team about the range of possibilities. It also gives you a benchmark to update as the matter develops. And you might recognize this approach from the book, Getting to Yes, but similar ideas come up in game theory and other negotiation tactics as well.

Then the fourth section is your current hypothesis for what you think is likely to happen with this case. This is where that OHL framework comes to life. Basically, based on everything you've captured in the first three sections of the strategy document, what is your current best guess for how this matter is going to go? And then, what's your plan for getting there?

And this actually shouldn't be a complete A-to-Z roadmap when you're just starting out. You want to capture your likeliest overall path and then your next concrete step for getting down that path. For example, if you're litigating, the high-level path captures whether you think it's likely to settle early, settle after discovery, maybe go all the way to trial. Then that concrete next step might be sending a demand letter, calling up opposing counsel to have a conversation, or going straight to filing pleadings.

But to make your plan a truly agile one, I'm going to urge you to go a little further and not only capture that next step, but write down what you hope to learn from it. In fact, the best matter strategy plans not only capture what you hope to learn, they discuss how the plan might change depending on what information you gain.

I'll give you an easy example. Your client might think they're on the path to a collaborative or otherwise low-conflict divorce. But if you find out their spouse has hired the local pitbull as their lawyer, then you can be pretty confident that collaboration is no longer the likeliest outcome.

Let me go back to the basics and acknowledge that these are all things that you and maybe other experienced people on your team already have a pretty intuitive grasp over. So why bother with all this extra work of writing it down as a matter strategy plan? Hopefully, you're starting to see the value, but let me quickly spell it out, working from the inside out and starting with the value to you, then expanding to your broader team.

For you personally, having a written strategy document for each matter you're handling means less information you have to carry around in your head. And I guarantee your brain will rest easier on evenings and weekends if it doesn't have to actively carry next steps and strategy information around with it all the time.

A good strategy plan lets you boot up your brain far more quickly when you pick back up a matter after a while. And it lets you cool down once you've done your chunk of work on it and ideally updated that plan as a result.

Then from a selfish perspective, it also means that the members of your team won't have to bug you as much to get themselves up to speed on a particular client's situation or strategy. But it actually does a lot more than that.

By actively engaging your team with the strategy, they're going to be more likely to understand it, to follow it, and even push back on it when warranted. Multiple brains are definitely better than one. They're also going to be more engaged around helping that client when they know the outcome they are trying to achieve. As I've said before, most people don't want to be just a cog in the machine. They want to use their intellect and creativity to engage with problem solving.

It's one of the main reasons Radhika Dutt talks about liking the OHL method so much. Engaging people with tasks can be challenging, but almost everyone likes solving puzzles. That last part is what too many legal teams are missing. It's not enough to just list the next set of steps or tasks that need to be done.

By putting them in the context with a larger goal, you begin to articulate what those tasks are working to accomplish or what the process steps are designed to teach you. The plan calls out what assumptions we're testing, what information we're trying to surface, and what would cause us to change course. Because when you engage your team around those things, you get a genuinely strategic approach from everybody.

And when these four parts of a good matter strategy are in one place, are kept current, and are accessible to the whole team, you've solved the problem I described at the beginning of this episode. The matter is no longer running on any one's memory. It's running on a shared, evolving document that gets better and more accurate as the matter progresses.

Let me also hit on two important practical things from a business model standpoint. If you're still using the billable hour model, then you should be 100% confident that creating this comprehensive strategy document is billable work. And it's actually high-value work from the client's perspective. Remember what I said back in episode 108 around clients needing to mitigate risk and navigate complexity? A good matter strategy plan does both.

And then if you've switched to flat fees or other alternative billing models, then a strategy plan should absolutely be built into the price you charge. Aside from all the value in the plan that I've just discussed, it serves an even more important function in flat fee billing. Because the biggest single risk of a flat fee model is scope creep. And a good strategy plan, like a good project plan, is the place where you capture and define the scope of work.

This is a big part of why I like phased flat fees so much, and one of your earliest phases should always be developing this plan. And you can then adjust the price for future phases based on what you learn from the initial steps, and you've got a clean artifact to point back to if reality starts to diverge from your or your client's initial assumptions.

So, you've got your matter strategy plan. It's a living document, it's accessible to your team, and it's evolving as the matter progresses. Now, let me introduce the mechanism that drives that evolution. It's what I'm calling the matter checkpoint meeting. And there are actually two of them. The first is internal with your team. And then you should absolutely be having a strategic check-in with your client as well.

And technically, these are cadence meetings, but they're not on a fixed calendar. They're triggered by an event, in this case, the completion of a significant phase of the matter. And your client journey map already defines those phases, so you have a good idea when these meetings should happen before the matter even begins, but obviously things can change.

The internal matter checkpoint meeting comes first, and this is where your team reviews the matter strategy plan together to check in on progress and make updates as needed. Like the matter plan itself, there should be four parts to the meeting. First, you start with where you just were. What did we know when we began this phase? What were our goals? And what did we know we needed to learn? This grounds the conversation in the original strategy and sets up an honest comparison to where you've landed.

Second, do a quick recap of what just happened with the matter. Yes, the tasks and activities you performed to advance it, but more importantly, what you learned from those efforts. And obviously, this is the learning piece of OHLs made explicit: objectives, hypotheses, and learnings. It recognizes that the team's efforts were designed to both advance the client's goals and to maximize your information about the overall situation.

Third, and this is the pivot point of the whole meeting, based on what we've learned, are we still on track with our original strategy or do we need to make adjustments? This question is what separates a matter checkpoint meeting from a glorified status update. After all, what's the point of maximizing learning if you're not prepared to alter your course as a result of it?

Fourth and finally, we plan out what's next. Again, that's the specific activities needed for the next phase and what you hope to accomplish from those activities. But of course, we also want to capture what we're trying to learn, what information would tell us at our next checkpoint that we're on track, and what might signal that we need to adjust further. This part closes the loop on the OHL cycle and sets up that next checkpoint meeting as the inevitable result of this one.

Then, once the team thinks they know where they're going, you also need to take it back to the client and run through the same four steps with them. And partly, that's to keep on top of those front five ethics obligations I mentioned last week, RPCs 1.1 through 1.5. But it's also a fantastic way to keep the client engaged around solving their own problem.

You can't want this more than they do. And if they're starting to have other ideas about what they want than what they told you at the beginning of the matter, then this client checkpoint meeting is a great way to draw that out.

Now, I want to be honest about something. Some of these conversations are going to be easy and some of them are going to be harder. Especially that third question about what needs to change. Because sometimes what you've learned is going to mean telling a client that the strategy needs to change in a direction that they're not going to love. But that's exactly why you design this meeting into the process from the start.

You've already established the expectation that the plan will evolve, that you're navigating a puzzle together, and that updating the strategy based on new information is a feature, not a failure. You've earned the right to have that hard conversation because you've built it into the framework from day one.

And when you do it well, that matter checkpoint meeting becomes one of the most powerful client relationship tools in your practice. It's how you deliver on that consortium piece that I also talked about in episode 108, that sense that someone is genuinely in this with them, not just sending updates, but actively thinking and adapting alongside them. That's something that a quick email update just can't replicate.

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All right, let me close with a quick reframe that I think ties everything together. The client journey map from last week's episode is the high-level outline of your overall typical process, the road you've built for clients to travel as you help them resolve their legal problems.

The matter strategy plan I've just illustrated is the actual itinerary for a particular client solving their specific legal problem. It's the same road, but now you know exactly where you're starting, where you're trying to go, what you expect to find along the way, and how you'll adapt when the situation on the ground looks different than you anticipated.

So, next week, I'm going to take things back up a level or two because the same type of planning I've been describing for individual matters also works for the projects and initiatives you're trying to accomplish within your firm or practice overall. Whether that's updating your policies and templates, rolling out new technology, adding headcount, or even moving locations, all of these same concepts apply.

And honestly, that's where they originally came from in the broader business world. I've been borrowing and adapting them for legal matters. But they were always meant for this on-the-business kind of work too.

And then after that, I'm going to close out this 101 series with a return to an Agile mindset, back to those first principles and what all of this is actually in service of accomplishing. So stick around. We're almost at the finish line.

So let me briefly connect today's discussion to how GreenLine supports these ideas in practice. Your Kanban card is actually an excellent home for the matter strategy plan.

And as part of our onboarding, the GreenLine team can help you set up your card template so that the description field already has the headers and placeholders for the sections of the matter strategy plan that I just described. Or we can also help you put whatever other information you want in there, so it's right there waiting for you when you go to work on each individual matter.

And actually, the card history feature we have gives you a built-in audit trail. So every time you update the strategy plan, that change is logged and now you've got a record of how your thinking evolved over the life of the matter.

Or if you'd prefer to keep the strategy plan as a standalone document in your document management system or cloud drive, that works too. Because we can set up a custom field on the GreenLine card that links directly to it or any other important documents for your matter so they're always just one click away from the tool your team is using to manage their work.

Either way, the goal is the same. GreenLine becomes the place where the overall strategic direction of a matter lives and stays current and gets connected both to the overall phase progress at the macro level and the individual tasks needed at that phase on the micro level.

It's where team members can catch up quickly when they've been away from a matter for a while, and using the comments function, the card can actually act as a matter-specific communication channel, kind of the equivalent of a Slack or Teams thread, but centralized right where the work actually lives. Which means you all can get yourselves out of those more disruptive tools, including email, and keep the important conversation attached to the matter where it belongs.

To learn more, head on over to greenline.legal and be sure to click that Book a Demo button so we can show you all the ways that GreenLine supports a more strategic and more Agile approach to your legal work.

All right, that's it for today. If you found this 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 and the rest of the podcast as it evolves, please hit that Follow or Subscribe button in your favorite podcast app.

If you have thoughts or questions about today's episode or topics you'd like to hear me discuss, please don't hesitate to reach out to me at 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.