Ep #131: Why Overdue Tasks Keep Piling up in Your Law Practice

Full Episode Transcript

With Your Host

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Today, I want to talk with you about your to-do list, especially if you have one that was created by your practice management software, the tasks that generated for you, dated for you, and assigned to you with the truly important stuff buried somewhere in the middle of all these other to-dos, half of which are probably already marked as overdue.

To be fair, this could be true even if you're tracking your to-dos on a legal pad, but this task overload problem is especially problematic when it's your software that's generating the tasks. The thing is, everybody in your practice has a version of that list, and I've watched so many people start their morning by sifting through their task list to find the one or three things that absolutely, positively cannot slip, all while kicking everything else a little further down the road.

Today, I want to explain why this sifting keeps getting harder every year and also to tell you about the feature we've just rolled out in my software tool, GreenLine, to make those true deadlines way more obvious.

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.

Hey, everyone. Welcome back. So, I'm going to lead off with a little disclosure, which is I'm going to spend a part of this episode talking about a new feature that we have just rolled out in GreenLine, and it's something that seems so obvious to me, and yet I don't really see it available in other law practice management or legal workflow tools. And that is, we now have the ability to clearly distinguish between what we're calling a target date and a deadline, and I will explain what we mean by those two things in a minute.

But first, I want to assure you that this isn't just a GreenLine promotional episode. This is really about why the concepts behind those designations matter and why we thought it was so important that we wanted to build it into our software tool. And the thing I want to really prime you for upfront is, yes, the ability to mark things as deadlines is very much about task management and promise keeping and delivering on the promises you say you're going to deliver. And that includes court deadlines and administrative filing deadlines and all of the things that we have to deal with as lawyers.

But it's also very much about capacity management. And that's something I obviously talk about a lot. It was a core theme of the Agile Attorney 101 series that I did, and I'm going to bring back a few concepts around capacity and talk about why having target dates different from deadlines is so important for understanding the capacity that your team has and then committing to work that keeps you in balance with that capacity.

But I want to start by doing a little bit of a history lesson. And as many of you know, I am a fourth-generation lawyer. I grew up working in family members' law offices, and one of my very first jobs at 14 was updating pocket parts for my uncle's law firm. But what's interesting is that actually puts me right at the beginning of the era where law firms were starting to use computers to track and manage information about their cases.

And, you know, prior to that, it was paper. The files were paper, they got moved around in the big redwell folders. I have this very specific memory of how the layout of the multi-page file folders were with the two-hole punches at the top, and there were calendaring items, and there was correspondence in a different tab, and there were docketing things on another tab, and all of it just came together and made sense to people. And then there also were these big master calendars that the firms kept, and obviously the really important deadlines or due dates got docketed or calendared on those big paper calendars.

And I think back in the day, I mean, obviously, I don't have a clear working memory of this, but my understanding of how it all worked was that case loads weren't quite as heavy back then. And so there would be obviously calendar dates for a particular matter, a particular file, and it wasn't a stretch to believe that the team responsible for the work on that file could look at whatever the deadline was for a particular deliverable and kind of hold the rest of the information in their head as far as what are the milestones or the other plan dates that they have to hit in order to work up and make that particular filing or deliver that particular document by the deadline.

And I'm not saying it was perfect. I'm not saying it was always chill. Obviously, there were busy times. There were still problems then, obviously, of deadlines getting missed at times, things like that. But I think overall, my sense is that legal teams and law firms weren't quite as overloaded then, or they didn't maybe feel as overloaded. There was just inherently a little bit more balance, a little bit more flow to the way that work was getting done because the expectations were that we had to think through and work through in this relatively manual, paper-based way.

And then, you know, computers came around. And I'm not going to do a research project to figure out like when the first computers showed up in law practices, but, again, my high-level understanding, certainly word processing was something that was happening. Spreadsheets and calculations started to happen on computers. I happen to have a very vivid memory as a 14-year-old of one of the lawyers in my uncle's firm playing an awful lot of the video game Leisure Suit Larry in the Land of the Lounge Lizards, so they weren't all for productivity.

But best as I can recall, and we're talking about the late 1980s, 1987, '88, I don't think that the firm was using anything that we would recognize today as case management. I think they might have been doing some time tracking on the computer and maybe using a spreadsheet or a database program to send out some bills. But this is even before the era of like ProLaw and PC Law, which I think are some of the earlier law practice management tools that were out there.

Now, regardless of the history, I think it's safe to say that we're now 40-ish years into the computerized case management software era. And we're now coming up on 20 years into the cloud-based case management software era. And I think the marketing message for these software products the whole time has been pretty consistent, which is these software programs will help you do more with less, right? They're going to help you take on more cases, manage your work more effectively using the people, resources you already have, and ultimately the idea is that that should translate to more revenue for the firm, maybe more profit for the firm, that the firm will be overall more effective because of these software tools.

And that creates an interesting cause and effect because when you buy a piece of technology because you are trying to get it to make you more productive, more efficient, make more money, more profitable, whatever, you then are going to naturally feel like you need to take on more work in order to justify the expense and justify all of the hassle that it is getting up and running on a new software product. And of course, the software companies are also trying to continue to build out features and functions that they think will help you meet that do-more-with-less promise.

And with the cloud-based tools in particular, you know, after they showed up in I think it was 2008, it wasn't long before we started to see this movement into task tracking and particularly things like automated task lists. And so, the calendar still exists, and there still is this calendaring functionality and docketing functionality. But the company's theory of the work, and I think most law firm owners and managers really bought into this theory, was that we could make the workers inside of the firm more efficient by getting the software to tell them exactly what to do. And that's where all of these checklists and automated checklists come from.

Now, don't get me wrong. I love a good checklist, but you've heard me say on this podcast over and over again, the highest and best use of a checklist is not as a to-do list. It is as a quality control mechanism. The true purpose of a checklist isn't to say, "Hey, these are all the tasks that are on my plate, and I need to get them off of my plate." It is, "These are all the things that need to be true or at least accounted for in order for us to produce the right quality of work for this particular client situation."

And I'll say again, one of my favorite books on the topic, I think maybe one of the best books out there on the topic is the Atul Gawande book, *The Checklist Manifesto*. And I will remind you again that the subtitle of that book is not "Getting Things Done." The subtitle of *The Checklist Manifesto* is "Getting Things Right." It's a book about quality control. And if you want to go deeper into why that's important, I did a whole episode on this all the way back in Episode 11, where I talked about the definition of "done" as my favorite type of checklist. And I would encourage you to go listen to it if you haven't already or if you haven't in a while.

So, checklists are good, quality control is good. But something happened in the last 15 years or so of law practice management software where the software companies took this concept of checklists and kind of went nuts with it in this very prescriptive, very waterfall way of working. And I think what happened is they looked at any one type of matter, and they assumed, kind of correctly, that for any given matter, you can take a deliverable with a deadline and you can create this pretty little cascading project plan where all of the necessary work items that are needed to meet that deadline just kind of line up in a row. And if the people on the team would just do all the things in that order at the right time, then we're assured to hit the deadline.

And so, the software really emphasizes assigning due dates for all of those tasks and making sure that there are people responsible for all of those tasks. And basically, they put the deliverable on this neat little railroad track with the idea that you can just sort of give the work a nudge, and through all of those assignments, you'll guarantee that the work train will hit every single station on time along its way to that final destination. And in a perfect world where you have a team of people who are able to actually focus their time and attention, their capacity on one particular work stream for a decent stretch of time, that can work.

But of course, that's not what these products are selling you on. They're selling you on, "Hey, our tool will let you take on more work," meaning more concurrent work so that you can do more, make more money, all the things. And the way they conceive of it is that each individual matter has its own train track, right? And that it will just glide along on that track and hit station after station on its way to its final deadline deliverable. And so, you take on more work, you have to build another track, you've got another set of stations. Again, in the individual matters, this can work in theory, but here's where the concept that they have is broken. The track isn't the matter. The track is the team.

It's the resources that have the capacity to do the work. And so, when you try to create this sort of cascading set of tasks on its way to a deliverable for matter after matter after matter, the software tends to assume that every new matter that comes in the door gets its own timetable drawn up in isolation with the assumption that the track ahead is going to be clear.

And so, these task programs, whether they're algorithms or today whether they're generated by AI, all have this sort of same flawed assumption, which is they will happily write a timetable for train number 100 once it shows up in your practice, but they don't take into account what's already happening with trains one through 99 that are already out there taking up space inside of your firm, your practice, your team.

On top of that, there's not really a clear dispatch function, right? Like in the real railroad world, they've got dispatchers and sidelines and signals because they know that the track is a finite shared resource. And so, if they need to have multiple things going, they know that they need to have someplace to put it. But law firms don't really think of it that way. They think that they've got sort of infinite space, or at least the software assumes they've got infinite capacity to put things off to the side.

But then that winds up making it the individual worker's problem to figure out how to balance and prioritize and sequence and basically track all of the side work that they need to be doing. And that takes a tremendous amount of administrative overhead. It takes a tremendous amount of tracking power, brain power, and it generally creates a lot of friction, right? This is why Little's Law happens. When you have too much concurrent work, everything slows down.

And so, what these traditional software tools have done is created the situation where they're promising the tool lets you take on more work, but in practice, they're just putting more and more train cars on the same capacity track. And even if they're speeding things up a little bit, if you put yourself over capacity, it doesn't matter. The friction is just going to take over and eat all that extra capacity up. And I think that's a big part of the overwhelm that people feel in their law practice today.

And I hear this very real frustration. I've been hearing it for as long as I've been consulting on my Agile Attorney side and certainly as we talk to folks on the GreenLine side, this is a real source of frustration because those darn automated task lists, they don't care. They're set up in a way that once a milestone or a deliverable task is designated, all of those precursor tasks are automatically created, automatically given a due date, and automatically assigned to a person.

Does the automation care that the person already has 500 outstanding tasks assigned to them? No. Does it care that it has wound up mandating that 30 different things are due on the same day or the same week? Also, no. When 30 things land on the same person on the same Thursday, that's not a bug in any individual plan. Every single one of those plans was reasonable. It's that the tool models the matter, and it's never looking at the track.

Now, there is one way that some of these tools, not all of them, try to sort of handle this priority problem or help the team with prioritization. And that is, they let you create a priority field, some version of low, medium, high, and either urgent or critical. And on its face, that's reasonable. In a firm with good capacity discipline, that can do some useful work because it lets a requester say something about a task that just having a date doesn't necessarily tell you. But the fact that it's self-declared and also that it doesn't necessarily have a clear connection to consequence, that can become an issue.

And then there's this other problem, which is nobody really uses low and medium. Everything is either high or urgent in the system. And so now you've got basically this continuing prioritization problem where it's really hard to tell if something is truly high priority or if someone is just trying to get your attention with it.

And I did a deeper dive on this concept as well, this notion of urgency smuggling and how people, when things are starting to arrive late, will begin to give false deadlines or false urgency signals because they don't have confidence that the work is going to get delivered on time. But that just becomes an arms race where none of the signals are reliable. Everyone is trying to sort of smuggle their sense of priority in. You can go back and listen to 106 where I did a full episode just on this topic.

So, as my GreenLine partners and I were thinking about how to try to account for this problem and come up with a better solution for it, the thing I kept coming back to is that all of these existing tools really only have one concept for how to assign a date to something, and we call it a due date. So, someone's personal to-do list becomes this morass of hard-to-differentiate tasks where the actual important deliverables get swallowed up in a sea of other tasks that are basically just preliminary work or minor milestones along the way to the actual big picture thing.

And that gives you this major signal-to-noise ratio problem where people have to sift through their open and overdue tasks and manually prioritize them on a regular basis. They've got to go find the needles in the haystack in order to figure out what are the most important things for me to work on right now, today. But of course, because the act of prioritizing any one thing is inherently the act of de-prioritizing everything else, what that also means is a lot of work keeps getting kicked down the road, and those overdue task lists tend to grow and grow and grow.

And so, the need we wanted to meet was at first, a way of really clearly designating what are these high-priority dates that we absolutely, positively have to hit. And so, we have called that in our system a deadline. And I want to be clear that a due date and a deadline are not the same thing, at least in my thinking about how to address this stuff. And this is taken from the concept of work item types and the cost of delay framework. I talked about this in Episode 106 as well, although actually you can go all the way back to Episode 14 where I first introduced this concept of different work item types.

And you may recall or if you go back and listen to that, you'll know that one of the sort of four high-level work item types in an Agile Kanban workflow is what's known as a fixed-date work item type. And I tend to think of those as the true deadline work item types. And here's what distinguishes them, is that missing a deadline has an immediate and severe consequence, full stop, right? Something bad is going to happen, and it's unavoidable. Once that deadline passes, then you can't go back and un-ring the bell. Obviously, those are things like statutes of limitations, court filing deadlines, administrative deadlines, maybe deal deadlines if you're in transactional work, but something bad or certainly suboptimal is going to happen if you miss a true deadline.

And not to diminish the importance of everything else, but everything else with a due date is really kind of just a nice-to-have. But the problem with the term due date is that it is inherently ambiguous. We don't really know when we hear the word "due date" or the term "due date" whether it is a true deadline or whether it's one of these sort of nice-to-haves along the way to a deadline. And so, in GreenLine, we've actually eliminated the term "due date" from almost all the tool. I think there might be one or two places left, but we're going to get rid of it there, too.

And instead, what we're using is the term "target date." And I think that's a way clearer term, right? A target date is something we're shooting for, we hope to hit it, but it's different from a deadline where we again have that severe and immediate consequence if we don't deliver the work by that deadline.

And so, that's it. That's the new feature. It doesn't seem all that earth-shattering when I say it out loud, but in practice, it is actually really effective. And in fact, just to like pull back the curtain a little bit, they aren't even different date fields. It's the same date field. By default, everything is a target date, but you can flag a date as a deadline. And it's that flag is what is going to help it stand out.

And I think first and foremost, it's really helping teams that are using it with solving for that signal-to-noise ratio problem, right? You can see in the list of things that need to get done on a certain day, those that are flagged "deadline" really stand out. And that's true, obviously for today, for days into the future, for months into the future. You can do all kinds of sorting and filtering along the way so that the deadlines really are prominent every step of the way.

But part of what makes it interesting, at least from my point of view, is that it can be used in conjunction with other tools we have, like my zone, like WIP limits to really understand what are all of the things that are taking up the capacity of the team overall, of an individual worker on the team so that we can also use the deadline flag or the deadline field to really understand if one person is going to be put over capacity because they are responsible for delivering too much work on the same deadline, or they have too much deadline-dependent work in their system at once. And that means that maybe the firm overall is at risk of missing one of those deadlines.

And like I said, there's other places where it shows up. If you're looking on the board view and you see tasks that are part of a card, you can see those tasks either on the front of the card or in the card details, but those deadline flagged tasks are going to jump out and be more prominent. We have other date fields that we can also flag as deadlines.

And so, obviously we don't want people to go crazy with this. We want to make sure that when you flag something a deadline, it really is a deadline. But I think having that clear definition helps, right? It's harder to do the urgency smuggling when something doesn't truly have that severe and immediate consequence if we miss it. Everybody kind of knows the difference between a true deadline and the sort of progress point along the way.

But again, why this is so important is that it helps you get a better sense of your commitments relative to your capacity. And because you can see the commitments that are coming due downstream into the future, it will help you limit the new commitments that you might be otherwise tempted to make in order to preserve capacity for the work that is already in the system, right?

The trains that are already on the track should get priority over the new work that is just coming on board. This is the essence of the first-in, first-out prioritization method that I'm so fond of. This is just really the way that all structurally sound operations and systems tend to be designed. You know, not to say that you don't occasionally have an express that you have to clear the line for, and maybe they pay a rush fee, maybe there's some other things. It's not perfect, but directionally we want to make sure that everything is working and moving down the track in a consistent and predictable way.

The beauty when you do that is that you don't have to shove as much work off to the side. You don't have to find these hidey-holes or these resting states or engage in the fence-chucking client homework assignments that are so common and all the other things that I can go back to many different episodes where I've sort of hit on different versions of this concept.

But a team that is operating within its capacity, starting with that honest reckoning with capacity, making sure that our commitments match that capacity, is going to naturally deliver work more smoothly. There's going to be less friction, and then the thing that is so unintuitive but it works is that by doing fewer things at once in any given stretch of time, you will actually get more things done over the longer term.

And so, I'll go ahead and try to distinguish GreenLine, right? By making a slightly different version of the same promise that I just railed against, right? Is we do think that we are going to help you get more things done, be more profitable with your law practice, take on more work if you want it, or just have more balance in your life if that's what you want. And I sure do like that idea.

But we're not going to do it by helping you build a "more" machine. We're going to do it by helping you build a Goldilocks machine, right? We're going to try to find the right zone where you have not too little work but not too much work, and therefore you can marshal the resources you have to really be efficient and effective and deliver high-quality deliverables by their deadline for all of the cases that you've taken on.

All right, so that's it for today. If you are already a GreenLine user, I would be happy to walk you through this new functionality in more detail. You probably have my contact information already from our onboarding, and so you know how to schedule a session with me. I will say, since this is a new feature, we would love your feedback about it, right? We know that we probably didn't get it perfect. We expect there are going to be some changes or improvements that we can make. So, once you start using it, please, please send your feedback. We would love to hear how it's working for you and how we could do it better.

One open question we have as a team, and I'm just kind of pulling back the curtain and I'll tell you about it, is whether we should have a similar flag called a "milestone" so that we could maybe more clearly designate the actual stations along the way to that final deliverable or final destination as opposed to each individual task. There are things we like about it, but we also don't want to make it too confusing. And so, once you've had a chance to play with it a little bit, I'd love to know, do you think a milestone would be a good flag to have on this date field as well?

Obviously, if you are not already a GreenLine user and you would like to see what this looks like or you would like to see some of the other functionality, please don't hesitate to go to greenline.legal and poke around. When you get there, you will see a "schedule a demo" button, and we would love to show you the tool, right? So, I think it's pretty cool, and I think you will, too.

Software aside, if you have thoughts or questions about this concept of distinguishing target dates from deadlines, please don't hesitate to reach out to me at john.grant@greenline.legal and I'm happy to chat about it. Or frankly, I'd love to hear if you have different frustrations with the way that your existing software tools are handling tasks and dates, right? I think there might be other improvements we can make along these lines as well.

With respect to this podcast, I've got a few interview episodes in the can that I'm really excited to bring you, and I'm going to continue to hit on other topics that I think, especially as the world gets even crazier with all this AI stuff, really getting clear about the basics of process improvement and workflow management. I really hope to bring some calm and some peace to your practice as we get into the busier part of the back half of the year.

So, be sure to follow or subscribe to the podcast, whatever your player button says. And if you have friends or colleagues who could benefit from a more Agile approach to their law practice, please share the podcast with them.

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.