Ep #142: Can Your Legal Quality Standards Be Too High? The Problem of Overbuilt Work



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With Your Host

John E. Grant

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I've talked a lot on this podcast about how defining what quality looks like is the essential step to improving the process for delivering that quality. But there's a human tic that makes that harder than it needs to be. Because when I say the word quality, I can almost guarantee that your brain automatically puts the word "high" in front of it. We are inundated with messaging about achieving high quality. But today, I'm going to explain again why that default to high quality is actually an anti-pattern and what you should focus on instead.

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, on the last episode, I talked a little bit about this two-day intensive strategy and process improvement, and what ultimately turned into a little bit of organizational design, product design workshop with a pretty established firm. And I talked about a few different things that we hit on in that workshop, but today I wanted to go a little deeper, discussing the item that I hit on last week in terms of the parable of the man and the raft.

Just as a very quick recap, there is a Buddhist parable about a person on a journey, a man on a journey who gets to a river, needs to cross the river, there's no ferry, there's no bridge, and they have to basically build a raft. And they spend lots of time and energy and intellect and creativity building a raft that gets them across the river. But then sometime later, they are encountered by a Buddhist monk or a wise man as they're climbing up the side of a mountain, and they're carrying the raft on their back.

And of course, the monk says to the man, "Why are you still carrying this raft?" And the response is, "I put all this time and effort and creativity into it.

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It's what I needed to cross the river and I need to hang on to it in case I ever need to cross a river like that again." But of course, there are going to be no rivers. He's climbing a mountain. He's on the next part of the journey.

And so the moral of the story is that sometimes we have to thank the things that got us to where we are and let them go so that we can relieve ourselves from the burden and free up capacity and basically strength and creativity and energy to be able to apply those things to the next challenge that's ahead of us, as opposed to just hanging on to the things that got us to where we are.

I also mentioned how this was a pretty experienced firm. It's been around for a long time, and in fact, they've done some succession planning. And some of the challenges that they were having had to do with that transition from, let's call it, the old guard to the new, different approaches, different ways of working. And I also talked about how some of these sort of sacred rafts in this practice, yes, they were being carried by the older guard, the more senior attorneys, because that was how they'd practiced and that was the thing that was comfortable and useful to them, but also how some of these rafts had become cultural and that newer attorneys, associates, paralegals, et cetera, others in the firm were carrying the raft even though it wasn't necessarily part of their journey, but it was part of the firm journey.

Today, I'm going to go a little deeper again without sort of exposing too much detail about this particular client of mine. I'm going to go into a little more detail about what the shape of one of these rafts was. And specifically, it was the case workup process that the founding attorney of this firm had developed, and it was a very intensive, rigorous process. And it was great. I mean, I didn't see all of it. I actually did see one example of it that they showed me, and it was thorough. I was going to say it was beautiful. I'm not sure if beautiful is the right word. It was incredibly detailed and complete and really got to all of the possible things that were

happening or that might have happened or that we should be looking out for in this particular type of case that this firm practiced.

I should also say that this particular firm tended to work with more institutional clients, right? So a little bit more sophisticated, bigger things at stake, more money at risk, things like that. And the feeling of the senior lawyer was that this intensive workup was his special sauce and by extension, the firm's special sauce that was able to attract and satisfy the needs of these sort of bigger, more institutional clients; that this really was the necessary thing that was creating success for the firm and for the practice.

Now, the problem with this incredibly thorough, incredibly detailed workup, as you might imagine, is that it is a bear to produce. It takes a lot of work and energy and time and attention and creativity to be able to pull it all together. And it also takes a ton of research. There's a lot of things that need to come in from the client, maybe from other sources in order to provide the raw materials to get to this level of detail and this sort of comprehensive review.

And all of that, it's expensive, right, just in terms of the amount of capacity from the firm and the people inside of the firm. And it usually is a team of several people that has to produce this very detailed workup. And one of the things that kept happening is that these detailed workups, in the particular phase of the case that they happened in, were taking all of the oxygen out of the practice in terms of the other matters that were in flight that maybe weren't in this intensive workup process, but maybe were at more important inflection points, right? So getting closer to settlement or getting closer to whatever the resolution of this case was going to be.

But the people on the team weren't always available to engage in that inflection point work because they were so busy doing these very detailed

workups, these intensive workups at this other part of the matter for the newer clients that were coming into the system.

And that's where a lot of the silos came in. That's where a lot of the resentment that I sensed was happening amongst teams and amongst individuals inside of the practice. Why are you wasting your time on this very intensive thing when I have the ability to get this other thing across the finish line or do this other work that is going to be more productive, reach a resolution faster, or whatever it happens to be in the firm.

And again, you can probably see how because this particular detail of the write-up was sort of a sacred thing and was a cultural thing inside of the practice, the people that were being accused of not supporting the other phases of work in the practice were confused by the frustrations that were coming their way, were confused by, in some senses, the animosity or even the anger. And that led to some distrust and some other things. It's like, what do you want me to do? I'm doing the thing that is part of the firm's identity and you're mad at me for it. So the social cultural dynamics, the organizational dynamics, it's easy to see how these can evolve.

But the root cause, at least in my perception and as we unfurled things over the course of this two-day workshop, really came down to, yes, we need something in the terms of this case workup, but maybe we're overbuilding it. Or maybe we're investing too much of our finite capacity in this thing that maybe isn't as big of a value add where we are today in terms of the firm has plenty of business, it has no trouble bringing in new work. There's tons of demand for the particular work that they do.

And yet, they're still clinging to this older practice that I think was partly developed when the firm was trying to establish itself and trying to grow market share and gain market share and build trust in the marketplace that they were good enough, that they were sufficient.

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And it won't surprise you that the particular genesis of this practice was an attorney that had had a career in one of the bigger, fancier law firms, had broken off, and was now in competition with that law firm for new work. And so it's this common promise of I'm going to give you big firm quality, but you're not going to have to pay quite as high a price for it because I can keep my overhead low because you're not buying the full brass and glass experience of the Am Law 200 firm.

And so naturally, right, in the early going, they had to build a raft to sort of establish themselves in the marketplace. But as we got downstream, or as we got further along the journey, not just downstream, this initial workup maybe wasn't as necessary as it once was.

And so the concept that we dug into when it came to how can we rethink this particular product, and this is my weird lens in terms of consulting and all the rest, where I think of that workup as a standalone product. And it's a standalone product that is in service to the larger product that is the firm handling the matter, but this product served a lot of roles, right?

It number one was a client-facing document. So it was putting things in front of the client in a way that explained the situation and broke things down in this incredibly thorough way that demonstrated a ton of value that the firm was bringing, but it was about charting potential paths forward. And then the further work of the firm was pursuing one or more of those paths in order to achieve the outcome that the client was trying to achieve.

It also was an important internal document because doing all that work and that early assessment and really building this overall strategy or set of potential strategies in the context of the matter is what allowed the attorneys further along in the matter process to be able to sort of quickly reboot their brain, understand what the issues are, understand what the potential avenues are. And frankly, allowed them to be agile in their approach, to be out ahead of all of the possible things that might come up

in this particular type of case. And so it really is something that was important for the work of the firm overall. So it's not like we can just abandon it. We don't want to get rid of it.

But the question became, are we overbuilding it? And the concept that we talked a lot about that wound up resonating well with them is this notion of fit for purpose. And fit for purpose is this really great tool set. It's not something you hear a lot in the US and North America. It's a term that I think is a little more common over in Europe. And it's this idea; it's basically finding the Goldilocks zone. It's delivering a product that adequately meets the needs of the customers for that product or service without overbuilding it.

So we don't want to underbuild; we don't want to fall short of the quality standard that is necessary to deliver the result that we need to deliver or the outcome that we need to deliver, but we also don't want to overinvest in it. We don't want to overbuild it in a way that costs us a lot of time, attention, energy, resources, or just flat money, that where the investment that we're making in the product is so big that it doesn't feel like it's a good value to deliver, right? Or that the return on that investment isn't very high, not because the return isn't good, but because the investment is so big.

Now, one of the things that turned out to be true as we sort of interrogated what does fit for purpose look like for this particular deliverable, for this particular strategy plan. We kind of had to take ourselves back to what was the situation that the founding attorney was in when they first developed this particular piece of work product, this intellectual property that they had. Again, we're talking about several decades ago, where the written word was very much king. I think that the original version of it was in fact a WordPerfect file. That won't surprise a lot of you. But this particular piece of work was a very intensive multi-chaptered written document.

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And the reality is that was number one, sort of the style of the day. Number two, there weren't a lot of alternatives to it. The PowerPoint deck had not come into prominence yet. It might have existed, but it was relatively new, probably not well-adopted in a lot of law practices. And so one of the things that we talked about is, is there a different format for conveying this information?

And we didn't come to any actual decisions, I should say, right? We were really exploring possibilities and part of the work of this team coming out of the workshop is to take some of these things and make them actionable. And we spent a lot of time, the last 90 minutes of the workshop talking about how to do that. So I always want to leave these things, right, these intensive two-day sessions. I want to make sure that we're not just noodling around and doing navel-gazing, right? We actually are turning it into something that feels realistic and actionable that we can make progress on. But we didn't do the progress. We didn't do that work in the workshop itself.

But one of the other things that we did kind of uncover as we were interrogating this deliverable, this document, is that it was serving multiple customers and it was meeting multiple needs. And might there be a way of serving the needs of individual customers more simply? And specifically, whether there might be a way to convey the information directly to the client without producing this giant, very, very long document and maybe come up with something that is more of an executive summary. And that way you can polish the executive summary or the slide deck or the other way of sort of presenting the information without having to polish all of the deep research and the deep sort of analysis that underpinned the findings or the recommendations that came into this document.

And then if you had this deliverable that was more fit for purpose for that particular audience, does that change what fit for purpose quality looks like for this other need of having the deep resource for members of the team

when they're doing the downstream analysis or the navigating of the matter once it's sort of beyond that initial strategy phase?

So, without getting too much further into the details of this particular process, I want to talk a little bit about fit for purpose and the notion of quality. And the thing that I run into a lot when we talk about quality is that people's brains inevitably see the word quality or hear the word quality, and they will put the word "high" in front of quality. And there's this assumption that we need to be building everything to a high quality. And I love the instinct, right? I find myself in that a lot.

Frankly, you don't even get to be an attorney in the profession at all without having a certain high level of quality and standard for the work. But then even within that subset of people that make it into the law practice, the ones who are most successful are often the ones who have high quality standards. But as you can see, when it comes down to actually producing work, and once a firm gets busy and has a lot of different matters and a lot of different competing demands for capacity, for time and attention, high quality can become a workflow problem.

And so we spent a lot of time, number one, pulling apart who are the different customers, what do they need from this process or what are the deliverables, the outputs, the artifacts that they need from this particular phase of work. And then to bring in another concept, we talked about what is the minimum viable product that would suffice to meet the quality standard necessary to move the work forward beyond this particular phase.

And so that's kind of the message that I would like to convey to you all today, right? Is number one: when we talk about the quality of work, we're talking about the standard that is going to meet the need of the customer of that particular piece of work. If there are multiple customers for the work, one of the things we might want to consider is, do we actually benefit from having a single deliverable to try to meet the need of all the customers? Or

could something different actually meet the need better, assuming that creating different things doesn't actually put more burden on the people and the process and the system rather than less?

But the other thing is to really embrace this notion of fit for purpose. And I want to intentionally try to encourage you to use the term "fit for purpose" as opposed to the other thing that comes up sometimes, which is "good enough quality." And yes, we are talking about good enough quality, but good enough quality, it's hard for people to wrap their heads around and I think for a lot of people, again, especially a lot of attorneys, good enough quality feels like a failure. It feels like a shortcoming. It's like, "Oh, well, I couldn't do the thing I really wanted to do, and so I'm left doing this thing that is just good enough."

Whereas fit-for-purpose quality is intentional. It's coming at the design of the product or the service in a way that is really trying to unpack what are the needs, how do we meet those needs, and then how do we design a process, arrange our team and resources, and otherwise put things together in such a way that we meet the exact need, not too much, not too little, right? It's that Goldilocks zone.

This is not always easy. It takes some work. And especially when you're dealing with people who do have this default to high quality, right? Their base assumption is that everything should be built to a very high standard. And I know you know attorneys who are like that, and the attorney you know may be you, right? This is very, very common in our industry.

But one of the ways that I like to address this, particularly with those people, is to establish the guardrails on either side of the discussion. And there's a little bit of a reductio ad absurdum element to this, which is: how do we find where the outer boundaries of, yes, this is clearly overbuilt and, oh, this is clearly insufficient to the need.

And so I'll use a page count as an example, not that this is the perfect thing, but if this particular write-up, this summary, this analysis report is a 500-page report, too much. And I think everyone in this particular firm would agree, yes, 500 pages is too much. It's overbuilt. No one can get through it. No one can hold all that information in their head. That is too big a report.

And then at the other end of the spectrum, could we convey all of this information in a one-pager? That's the minimum thing that we might deliver. And again, I think everyone in the practice would agree that, no, this is too detailed; there's too much information; we can't convey it in a single page.

Once we agree on those guardrails, now we've got a zone that we can work within. And that's where I think having a discussion about minimally viable, which isn't to say that minimally viable is what we're going to produce, but trying to get to, okay, if a one-pager isn't enough, can we do it in a three-pager? Can we do it in a 20-slide deck? Can we do it in some other way that is going to deliver the information simply and efficiently so that we're meeting at least one of the customer needs of this particular process?

And again, with this practice, we actually did sort of get to that place where, yeah, there's a world where a certain number of slides in a deck that we can present to the client, as opposed to dumping this brick of a report on their desk, might actually serve their purpose, meet their need better than what we're already doing. But what's interesting there is that meets the needs of the communication to the client; it doesn't meet this other need of the deep analysis and having the resources available for the further work of the firm.

And so again, we didn't resolve all this, but where we sort of got to was, "Oh, maybe these are two slightly different products." And maybe what we need to do is create that deep analysis, but in a slightly less polished form,

because it was the polishing of this very detailed amount of information in order to get it ready and feel good about making it customer-facing that was resulting in a lot of the ongoing work, the diminishing returns, maybe that was taking up the capacity, the resources, the attention of some of the team members.

And so the discussion was, could we maybe do that deep work, but then leave it in a slightly rougher form that was going to meet the needs of our internal team, and then reduce it down to something more akin to an executive summary or something that could be digested by the client that conveys the information in a way that is understandable and digestible to them, allows them to make decisions about strategy or other techniques as far as moving the matter forward, and then keep the work product or the detailed analysis in that slightly rougher form behind the scenes.

So, for all of you, I don't know what your version of this sort of sacred raft might be. It could be in your work product; it could be your marketing, your bizdev, and all of those efforts. It's frankly a pattern I run into a lot is that a lot of law practices are over-invested in their bizdev and marketing efforts, and that is taking time and resource away from the delivery of work. It's this upstream product or upstream problem.

But whatever it is for you, I'm going to encourage you to sort of take those two steps back, try to understand who are the customers of this process, what is the right amount or the right sort of deliverable that is going to meet the need of this particular process, and then try to right-size it in terms of this fit-for-purpose approach to how can we still meet the need without investing quite so heavily in the creation or the development of this particular thing.

All right, I am going to leave it there for today. Once again, if you would like to talk about any of this with me, I encourage you, please reach out

john.grant@greenline.legal. I love thinking about this stuff. I love working on this stuff.

If you think you would like to do, or would benefit from, a process strategy, product design, organizational development workshop- I don't have a great word for what it is that I do. But what I do know is that we get to the root of some of the core challenges and issues, the things that are holding your law practice back, and we are going to break through them.

I never know what direction this is going to go when I step into that room. I've got techniques, I've got tools that I use. They are incredibly effective for finding where those bottlenecks are, and then a whole toolbox of potential things that we can do together to try to remove or at least improve the flow of work at that particular bottleneck so that we can unlock the things that are happening in your law practice.

Again, if this is something that you think you would benefit from or even if you just want to know more, I love talking about it. So 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 Lunara. Thanks for listening, and I will catch you again next time.