

Speaker 1: Welcome to the Extra Mile Podcast for bar exam takers. There are no traffic jams along the Extra Mile when you're studying for your bar exam and now, your host, Jackson Mumey, owner of the Celebration Bar Review.

Jackson Mumey: Hey, everyone. Welcome to episode 46 of the Extra Mile Podcast. This is Jackson Mumey. Glad to have you with us today. Thanks for taking time out of your day to find out more about the bar exam and things that are going on. Today's episode is timely. I want to talk with you about the California Bar Exam and recapping the test and the results and just kind of give you a feeling for what I think is going on in the California Bar. If you're not a California Bar taker, this may not be quite as relevant to you as it might otherwise be, but I do think that a good deal of what I'm going to be talking about is not unique to California. It's probably the biggest, most blown up example of what's going on in the Bar world.

I would invite you to stay with us and be part of this conversation. I do want to say, for those of you that may be choosing to sign off here in a moment because you're not so much interested in California, we do want to invite you to our Thursday get together. It's a live master class called How To Make The Next Bar Exam Your Last Bar Exam. This is a free training session in which I talk about the 4 steps that passing Bar students have to involve and incorporate into their studies to be successful on the Bar.

It's totally free to join us, but seating is limited. We need you to register in advance, in 1 of 2 ways. You can go to our website at CelebrationBarReview.com/webinar. That's CelebrationBarReview.com/webinar. You can sign up and get your seat there or, if you prefer to use text messaging, you can text the phrase NEXTBAREXAM TO 33444. Again, text the phrase NEXTBAREXAM to 33444, and reserve your seat. The seminar will be Thursday at 3:00 pm Eastern, 2:00 Central, 12:00 Pacific time. I invite you to join me. I think you'll find it really valuable and helpful.

Let me dive into the California Bar Results from 2015 right now. I want to just walk you through the numbers. I described this in advance. I thought it would be a train wreck. I think that's still a good way to describe what happened. There were I think a little over 8,000 applicants who took the general Bar Exam. Seventy percent of those people were first time takers. The overall pass rate on the State exam was 46.6%. This was the lowest test result, passing result, in more than a decade. About 3,800 people passed, which is a very, very low percent.

Now you might be saying, "Well what about for first time takers, how did they do?" Seventy percent passed, which is fine. I mean I think generally speaking that's a pretty good number, but that 70% was grouped in really just a couple of categories. It was primarily students from California and out of state, ABA accredited law schools. Those 2 groups, first time bar takers did pretty well. The California law schools, ABA approved law schools, had a 68% pass rate. Now

that would be low in any other jurisdiction, but that's a pretty good number for California.

The out of staters, so if you went to law school at Harvard or Virginia or Georgetown or, God forbid, some place out of California, that pass rate was only 59%. That would be really considered a very low pass rate anywhere else in the country. Once we get out of those 2 groups however, and we're just talking about first time takers. I haven't gotten to the repeaters yet. That's where the real train wreck happens. When we get away from the first time takers, the California State accredited schools only had a pass rate for first time takers of 21%, 21% for the unaccredited, with a fixed facility, so an actual facility where you would go.

Correspondence schools were slightly better, which is interesting, 29%. Then the unaccredited distance learning, which is really the bottom of the barrel in terms of law schools, first time takers only had an 18% pass rate. These are very, very low numbers overall. Once you get outside of that ABA accredited group, you see a huge drop, down from first time takers from 59% all the way down to 29 and then down to 21 and ultimately down to 18%. Now there also were Attorney Bar Exam takers, the people that sat just for the Attorney's Exam, the first and third day of the test. In that group, only 34.9% passed. That includes first time takers, so very low for that group as well.

What's going on there? Before we even get to the repeat Bar takers, what's going on with first time takers? You undoubtedly have heard some of the discussions that have been going on. Let me just share with you a couple of the big narratives. I've talked about them in other episodes. I talked about it when we were talking about the New York results, in episode 37, and I've mentioned it in some of our blog posts. I'll link to those in the show notes. One narrative is that law students, who represent most of the first time takers, are simply not as well qualified as they used to be.

Some people have pointed to the LSAT scores and to the fact that admissions standards have been lowered and said, "It is a less qualified group of Bar takers." Among the group of people saying this, in addition to some pundits certainly in the Wall Street Journal and the New York Times and elsewhere, we've got the National Conference of Bar Examiners. They've said, based on their numbers, they think it's a less qualified group of test takers. That's one narrative that's out there.

A second narrative, which is really a push-back narrative I think in part from the law schools and, in particular, the California Law School Deans have been probably the most vocal group around the country. They've said, "No it's not us. It's not the quality of our students. The test itself has gotten harder. The addition of civil procedure to the multi-state has made that test harder." The California test is hard because it's 3 days long. It's 6 essays, 2 separate performance tests of 3 hours in length. By the way, that format is changing late

in 2017 but, for right now, it's still a pretty tough exam in terms of the format, if nothing else.

The Law School Deans have said the test itself is distinctly different and distinctly harder. That's the second narrative. I think there's a couple of other narratives that ought to be at least considered. The one that you don't hear a whole lot about, that I think is absolutely valid, is that the quality of the Bar Review has really not improved or changed much in the last 30 years and that, if the exam has gotten tougher and the quality of the students is slightly less, and there may be some small element of truth to both of those, but I don't think they're complete answers.

Then I think the reality is that teaching the same old way, which has been to stand and deliver huge amounts of information, to tell students that they need to memorize, to create flash cards and mnemonics and attack outlines to issue spot on essays, to write gibberish basically and then try and underline a few key words, that historical approach, which was an okay, never a great approach, but it was an okay approach when things were generally going all right in the bar, now really has been exposed for what it is, which is a teaching fraud. That's really what I would tell you is that there is an extraordinary dearth or lack of real teaching going on in the Bar.

For those who've been through a traditional Bar Review course, you know that it's really a 7-week forced march of lectures and reading and question practice, with no feedback, no direction, no real instruction, just delivering information. Your task is to try and assimilate it as quickly as you can, hold onto it for 7 weeks and then spit it all out on the exam. Frankly, it doesn't work. It's never worked particularly well, but now it's more obvious that it's not working.

I have to say that I am truly surprised that there has been so little said or written that really lays any blame at the foot of the big Bar Review companies. They're not bad people or bad companies, but truthfully, they're for-profit organizations, who have made their living in large part on just doing the same old things year after year after year and not really caring what the result was because they controlled so much of the Bar Review market that whatever their students did turned out to be the official state pass rate. When the exam was a little easier and students were a little better and test results were a little higher, nobody really cared much about it. Now, there's more attention.

I think the Bar Exams have done a really good job of diverting the conversation to these first 2 narratives and missing the narrative that they're really not doing a particularly great job. I think that that's something that's worth considering is that particularly when we start talking about repeaters in a minute that there is just very little help or assistance you're going to get in a traditional course. In a day when the exam is tougher, and maybe you're a little less prepared because of your law school, you really can't afford to take that risk of just sitting in the

big classroom and hoping that you're part of the majority of the people in the class which turns out to be a minority in California who even pass the Bar Exam.

I think there's really a time to start asking, "Should everyone be following the same lock step approach to studying?" We've said for a long time that isn't so and shouldn't be so. I think it's beginning to be borne out now by the results. I want to offer a fourth narrative, however, that I think is also part of what's going on in California and elsewhere. It's very obviously in California, maybe more so than anywhere else. That is that I think the people actually grading the exam are less qualified and are less receptive today than they were 5 years ago, and certainly more than 10 years ago. Here's why.

California, among all the jurisdictions, is the most obvious and open about hiring people who are unemployed to grade Bar Exams. The only criteria is that they had to have passed the California Bar on their first or second try. A Bar repeater could be a Cal Bar grader. These people are paid \$3.10 per essay answer, to grade essays. They get a nominal amount of training. By that, I mean not anything extensive. I would suggest that a barista at Starbucks gets more training on the coffee drinks than a Bar Exam grader in California gets. They're paid so little that there's not much incentive to spend time with any particular essay or performance test.

In addition, the reality is that these are people who are typically unemployed members of the Bar, who are now being asked to make a judgment about bringing more people in to compete for the jobs that don't exist. There's such an obvious conflict of interest here, it stuns me that there isn't more being said about it. It's clearly a situation in which you've got a group of not particularly qualified readers. These are not Bar Examiners. They're not professors. They are not partners in law firms. They're not even senior associates in law firms. They are people who will work for about \$1,000 of extra income in a Bar season grading essays. That is really not a qualified group to be reading and judging these pieces of writing.

I will say that in looking at essays and comparing them to the answer scores that, in general, the grading of essays is getting lower and lower and lower. The presumptive 50 or 55 has become more and more the norm. It takes a better answer, an answer that shows more understanding of the law, more understanding of how the law is applied to the arguments, applied to the factual propositions, and less issues spotting, less rule memorization. Those things are not getting very good points from the graders these days. I think the result of that is that you're seeing essays that might have, in the past, gotten a 60, which would have been an okay answer, now is getting a 50. It takes a lot more to be successful. It takes a better quality of writing.

I tie that into the third narrative. If you're not getting instruction in how to write, you're certainly not going to get any help from the Bar graders. They are not going to fill in the blanks or connect the dots or figure out the implicit

assumptions behind your writing. The kind of writing that law students did in law school, with a more sympathetic, a warmer audience, if you will, they're now going to the coldest audience they could have, an audience that clearly is not interested in the success of a new Bar taker, who is not even I would say in some cases impartial or neutral.

That audience is not going to spend the time or make the effort to change what they see on the paper, so bad writing is just getting absolutely smashed. Now I know that there are some people out there who would say, "Well yeah, but that doesn't really affect the MBE." You're right. It doesn't. Here's the thing about the multi-state. We've got a lot of data points now, after 25 years of teaching and looking at the multi-state. Here's the interesting part that's happened. Since the civil procedure 7th subject was added, we have seen virtually no change in the multi-state for our students, almost none.

Now I know across the board, they're seeing slight variations. They're not enough to account for this big shift in a state like California. What we think has happened is that adding 27 rule-based questions in civil procedure, and taking 7 questions out of [comm 00:14:24] law, 7 questions out of property, 7 questions out of [crim 00:14:00] law and so on, has been a positive, a net positive trade-off, for most of our students. In fact, we've seen MBE scores go up, not go down. I think it's interesting that in California, the basic MBE mean scaled score was 1424. Now the national average is 1399. The way that you can figure this out is that 1424 really means a 142.4, out of the 200 questions.

The national mean average of 139.9, listen a 139 scale would pass in virtually every jurisdiction, except New York and California, where you need a 1440 or higher. What we're seeing is that California students still do better on the MBE than the national average. They just don't do well enough. They need 1440 and they're getting 1424. We don't think the multi-state is really the biggest part of the problem. The big part of the problem, in our view, is the writing portion. We think that that's really where the narrative needs to change and the discussion needs to change.

Here's the reality. If you went to law school, maybe you were a great law student, maybe not. Maybe you went to a great law school, maybe you didn't. Here you are. You're still trying to take the Bar and you're still trying to pass. Whether your law school prepared you or didn't prepare you, you now have to get ready for the Bar Exam. The thing that you can affect is not what happened over the last 3 or 4 years, but it's the choice of a Bar Review. It's the way you prepare and the way you take the exam. Unfortunately, I think far too many students are simply swept up in the notion that they've got to do what everybody else does.

Now they're beginning to look at that and say, "Wow, what everybody else does doesn't work very well." Now we've got a crisis on our hands. That's part of what I see happening for first time takers. Now for Bar repeaters, the situation

is so much worse. It's hard to even know where to begin. The overall pass rate for repeat Bar takers was 16% in the July 2015 exam. Let me say that again. It was a 16% pass rate for anyone who was retaking the Bar. Let me break it out for you a little bit more. The numbers only get worse really.

If you went to a California ABA school and you're repeating, you had a 24% pass rate. That would be pretty close to the norm in a lot of jurisdictions. If you were at an out of state ABA approved law school and a repeat Bar taker, your pass rate was 16%. That is much lower. Then again, the drop off is dramatic after we get away from those 2 categories. For the California State accredited repeat Bar takers, the pass rate was 8%. In the fixed facility, no one passed. In the unaccredited correspondence law schools, repeat Bar takers only 5% passed. In the unaccredited distance learning law schools, repeat Bar takers had a pass rate of 11%.

Now when we add in foreign trained attorneys, it just gets even more dire, if you will. For repeat Bar takers, foreign trained attorneys, we're looking at a less than 10% pass rate. Even for first time foreign trained attorneys, we're still looking at only an 18% pass rate. There's some serious problems for all of the folks in these particular groups. What's going on with repeaters? Clearly you have a real group of people who are just struggling. The best group is only passing at 24%, but the overall rate is 16%. Now look folks, if there's a 16% pass rate, there is something seriously wrong happening out there. People are doing the same thing over and over and over again and they're getting the same results over and over and over again.

I cannot emphasize this enough. If you're in one of these groups of repeat Bar takers in California, you need to change what you're doing. You need to go all in on this exam, or you should stop taking it because frankly the chances of moving up, given this kind of pass rate, are so slim that, unless you're fully committed to the process, I just don't think you're going to have much success. I think, frankly, that's what the Bar Examiners want. They want those repeaters to simply drop out.

I am really surprised, I wouldn't say stunned, but surprised at how often I talk to repeat California Bar takers who tell me that they've taken the exam a number of times, I mean more than twice, but they keep doing the same thing. They keep trying to borrow somebody's old big box Bar Review books. They look at videos on YouTube, whether it's mine or somebody else's. They try to look at the California Bar Examiner's website as though the model answers there will reveal some clues to them, and they study on their own. They fail. They study on their own. They fail. They study on their own. They fail. This goes on and on and on. It just doesn't change, or I see someone that keeps taking these big Bar Reviews and they fail and they fail and they fail.

What really is distressing to me are the people that decide that they're going to switch up. They leave the big box Bar Review and they go to someone with no

credentials, no history, no track record, very little in the way of quality. There are a lot of people who are claiming to be Bar Exam tutors these days. That's the beauty of the internet. You can set up a website. You can throw some stuff up there. You can claim to be a Bar Exam tutor. The reality is that most of these folks don't have their own materials. They're not licensed by the Bar Examiners to provide questions. They don't have any particular expertise or training as teachers, and they certainly don't know much about writing the exam.

In fact, I've been surprised at how many of these tutors continue to tell people to use IRAC, Issue, Rule, Application, Conclusion writing, and then follow it up by saying, "That's what causes people to pass." It doesn't. It is a fallacy. It is a correlative fallacy. It's like saying, "I wore blue jeans to the Bar Exam and I passed. Therefore, wearing blue jeans will cause you to pass." It's correlative, but it's not cause and effect. The people that pass the bar, who wrote in IRAC style, it wasn't because of that that they passed. They passed in spite of doing that. They passed because, once they stopped using IRAC in the midst of all of that, they let the actual facts and the rules come into play in making arguments. That's the reason they passed, not because they did what we know empirically doesn't work.

There are people out there who, frankly, are preying on unsuspecting California Bar takers and charging extraordinary amounts. I've talked to people who say they've spent 10 to 15 thousand dollars or more on a private tutor, with absolutely no assurance of success, no ability to see a track record, no ability to hear from other people that have worked with that person, in fact with people that don't even have their own materials. I would simply say to you that just throwing money at this doesn't make a difference. That's not the point. I think you've got to really dig in, if you're a repeat Bar taker, and start to do some analysis of where you're having trouble.

I think for most of you, you're going to discover that, if it's on the writing side, you really need a writing tutor, someone that can teach you and walk with you through that process. I rarely accept people who are repeating the Bar, particularly in California, into our Basic Mentoring Program because I'm not working with you on your writing specifically in that course. I would tell you you need our Personal Mentoring, which is about \$2,000 as compared to 10 or 15 thousand, but it still gives you 20 opportunities to work with me one-on-one about your writing. That's a big difference.

I think for people who are struggling with the California portion, the essays and the performance test, this is critical to get real direct instruction on their writing, to look at what they're doing and figure out how to make that writing conform to what the examiners want. Then for people taking the multi-state, I think that one of the keys is that a lot of folks who are repeating the Bar just keep going over the same questions and missing them and doing the same things.

We developed a program a few years ago, in conjunction with a company called Learning Strategies, that incorporates PhotoReading into study for the Bar. Photoreading is a whole mind reading system that allows students to read faster, much faster, and keep the information in their pre-conscious or subconscious, rather than trying to memorize it or hold it in your conscious brain. We've seen extraordinary jumps in multi-state scores from students that use PhotoReading. We teach it and incorporate it into what we're doing. The essence of it is that it allows you to have access to all of that information, instead of just what you could put on a flash card and memorize and hope stayed in your brain for a while. It's a different approach.

If you're having trouble with the multi-state, I really invite you to check that out. There's a link in the show notes to our PhotoReading materials and a better explanation of it that I'm going to be able to give you today. I just want you to know that it's a different way that you can improve what you're doing on the multi-state and get that score at least up to the 1440. Now I also will link, in the show notes, to a blog post that I did a while ago about how to interpret and read your California scores. There are a lot of people who fail the exam and never understand what their scores mean, or what it takes to pass.

The net result these days is that I think you need to be at about a 1440 on your multi-state and you need to be 60s and 65s across the board on all of your essays and performance tests. That doesn't happen by accident. It doesn't happen by just repeating the same old process. It certainly doesn't happen if you don't put in much time to your study. Now do you need to put in 50, 60, 70 hour a week studies for 7 weeks? No. What we find works better is a smaller number of hours, over an extended period of time. Given where we are in the study cycle right now, if you're taking the February exam, you're probably going to be at about 30 hours a week between now and February 2016.

If you're going to take the July 2016 exam and you start now, you can keep your studies at about 10 to 15 hours a week. That has proven to be a more effective way to learn, but you got to put in the time. Often what I see is that Bar repeaters have talked themselves into either spending, it's extremes, it's either very little time or way too much time. Then they burn themselves out. You need a balance in all of those things, particularly if you're a repeater. Then I think the other thing Bar repeaters need to keep in mind is the emotional mental component of this. When you've taken the exam and failed, for almost everyone, it's their first major failure in life.

When you take it and keep failing it, which is very much the pattern in California, it becomes an expectation that you're going to just keep failing. One of the hardest things to do when I'm working with a Bar repeater, is change that mental expectation. We do lots of things in our course. We've got a program called Successful Test Application Resources, or STAR, and I'll link to that as well, in which we work with you in neuro-linguistic programming, in changing your mindset, in changing your affirmation. We work with an expert in the field,

Elena DuCharme. I did a couple of interviews with Elena recently about why people don't get what they want on the Bar Exam. That was episode 41 and 42.

I really encourage you, if you haven't listened to those 2 conversations, to do so. We talk about why people get themselves in a mindset where they just can't be successful. They come to expect failure. They sabotage themselves. They do the things that will be not in their own best interests. It's important that you break through those habits. It's important that there be someone who can teach you and guide you through that part of the process. In our experience, an awful lot of "experts" in the field, Bar Exam prep, don't know anything about this area. Their only advice to you is study harder or do more questions. Frankly that just isn't going to work for most people.

I think that the reality is this: if you're a Bar Exam repeater in California, you need to make a really clear, conscious decision to gather your resources; your time, your energy, your money, and then go all in. Go in one direction, study, do the very best you can, put it all out there to try and pass. I mean really make that kind of an effort. If you just keep rolling along in the hopes that lightning will strike and that maybe you'll pass the Bar, you're not likely to be successful.

Statistically, 16% tells us that very few people will be successful. We've shared stories on our site. You can go to our testimonials page on our website. I'll link to that as well. I've done hangouts and interviews with Cal Bar takers that have taken our course and been successful. We know how to pass the Cal Bar. We know how to help you pass the Cal Bar, but you have to be open and willing to do it. If you haven't been through our live Master Class that I spoke about at the beginning of today's episode, I really encourage you to do that because I'm going to talk about some of the myths and some of the things that have to happen to change that. If you're a Bar repeater, you absolutely need to hear that.

I haven't said much about foreign attorneys, but I do want to speak for a moment about that category of folks. Foreign attorneys are at a huge disadvantage in the California Bar. You start with a lower pass rate. If English is not your first language, it is really a nightmare. It's a long, difficult test, as you know. If you're repeating the Bar Exam as a foreign trained attorney, wow your chances of passing are so low. I think in this situation, you have to decide that you really want it and that you're going to put in the time and the resources. I know that's not easy, but the reality is that studying abroad, or even studying in the US, when English is not your first language or when you didn't go to law school in the US, it's going to require more time, more energy, more willingness to be taught.

For you, I strongly recommend that you find a good tutor, a course like ours at least, and I think we're not the least. I think we're probably one of the best. We're just one of the least expensive. You find someplace where you can get individualized, personal attention because candidly, you're just not going to do

very well with a generalized, cookie cutter, one size fits all type of course and I think you've got to give yourself enough time. Even if you're repeating the exam, you have to give yourself enough time to take this exam. That same advice would be true for attorney applicants.

If you failed the bar in California as an attorney applicant, most often one of the big problems is you didn't give enough time to study. For you, it's still got to be that 25, 30 hours a week for now until the February Bar, or 10 to 15 hours a week for the July Bar. You can't shortcut that. You can't cut space off. You can't cut time off. You can't take shortcuts. The test simply isn't allowing it. It's not giving you that margin to be successful. I know that this has been not an uplifting and encouraging message. That's not my norm.

I do think it's important that you hear some of these things and you hear some realities about what's going on. I don't think you should give up on the Cal Bar. I do think, if you're a Bar repeater, you have got to make a decision to do things differently. Whatever you're doing, you've got to do something new. Even if you're, and I say this to our Cal Bar takers who didn't pass, and we've got some of them, they've got to find new ways, new ways to approach the material. They've got to look at different services and products that we offer. We try to advise them on the things that would be best for them. They've got to approach this work differently.

You got to put in more time. You've got to use your time more effectively. You've got to be open to the teaching. You got to do more writing, whatever it might be. I really encourage you to take an open, clear-eyed look at what's going on on the test and then go from that position. If you've got questions about your performance on the Cal Bar, or maybe you're a first time taker and you're wondering about it, I invite you to contact me. You can do that in one of a couple of ways. You can call me at our office, which is 864-365-6083, and we'll link to that in the show notes as well, or you can join our private Facebook group, called the Extra Mile for Bar Exam Takers. You'll need an invitation. Just look in the show notes again for the link there. Request your invitation.

That's a community of Bar takers, current as well as past Bar takers that went through our course, who are there to help guide and encourage you, as you prepare for your Bar Exam. We invite your participation in either of those ways to get ready for this upcoming exam. I know it's discouraging. I know it's disappointing. I know it's difficult. The 3 D's. I also know it's doable. I would say that if you take that approach that you can accomplish this, that you can make it happen, then you will be well on your way. I think by listening to this podcast today, you've demonstrated that you're looking for something else. You want a new approach.

I hope that the things I've said to you today will make sense to you and help move you in that direction and lead you ultimately to being one of those successful Bar Exam takers and members of the California Bar. That's it for

today's episode. It's been great having you with me. I look forward to talking to you again next time on the Extra Mile Podcast. That wraps up today's episode. Thanks so much for listening. If you'd like to be part of our Extra Mile for Bar Exam Takers private Facebook group, just check the show notes. You'll find a link in which you can request an invitation. We'll see you along the Extra Mile.

Speaker 1: Thanks for listening to the Extra Mile Podcast for Bar Exam takers at www.CelebrationBarReview.com.