

Transcript of 8/31/2015 Podcast Episode

Jackson Mumey: Hey, everyone, and welcome to "The Extra Mile Podcast for Bar Exam Takers." This is Jackson, and welcome to Episode 19. Today we're going to do something a little different than what I've been doing generally, going to take a little break from some of our other episodes to catch everybody up on things that are going on in the bar exam world, because it's been a pretty active couple of months. There's a lot that's been happening. The July, 2015 exams have now wrapped up. We're in that period of waiting for bar results coming. The first big jurisdiction, though, that is coming with results will be Florida in September, so we'll talk a little bit more about that in a minute.

I do want to welcome you, if this is your first time to the podcast. We're glad to have you with us. Hope you'll enjoy it. If you're looking for past episodes, you can find them on our website at [celebrationbarreview.com/podcasts](http://celebrationbarreview.com/podcasts). Again, that's [celebrationbarreview.com/podcasts](http://celebrationbarreview.com/podcasts). You'll find all of the previous episodes right from the beginning, along with the show notes, and I encourage you to check those out. Also would love to have you subscribe to this podcast, produce episodes twice a week, and they run, typically, about 15 minutes or so in length. Not real lengthy, but an opportunity to stay connected and in touch, and if you're interested in staying connected, there's two ways you can do that.

One is to subscribe on iTunes, or you can use some other resources, but iTunes is an easy way to do it. Leave a rating and a review; we'd love to get your feedback. The other way that you can stay connected is by joining our private Facebook group for bar exam takers, which we also call the Extra Mile Group for Bar Exam Takers. I'm not really good at that naming thing, I guess. Anyway, this is a pretty interesting group. It's made up of current bar takers, recent bar takers, people that are going to be taking the bar exam, maybe, down the road. Most significantly, it also includes a lot of our prior successful Celebration Bar Review students who have, just really basically, agreed to come into the site and mentor and answer questions and be there for support.

We obviously provide some resources as well. It's a private group, and all you've got to do is go to our website, and in the show notes you'll see the link for that request for the Facebook group, and shoot us that request, and we'll approve you and put you into the group, so pretty useful place to be. We've got several hundred members now, and I think it was a big

help to people before the July exams, so I would encourage you to do that.

One final resource I want to make everybody aware of, it's our webinar this Thursday. It's titled "How to Make the Next Bar Exam Your Last Bar Exam," and this is a one-hour live online training where I'm going to talk about some key things that really make the difference, in my experience, between people who pass the bar exam and people who fail the bar exam. Been teaching this material for a long time, seen a big difference in the people that go through and use these principles and approaches. I want to share those with you; there's no charge for any of that. I think you're going to find it's a really actionable jam-packed, content-based webinar, and if you're interested in registering, it's free.

The link is in the show notes for that, or you can go to [celebrationbarreview.com/webinar](http://celebrationbarreview.com/webinar), so again, [celebrationbarreview.com/webinar](http://celebrationbarreview.com/webinar), to register for the upcoming live online training. Lot of things going on, interesting time, lots of information and lots of resources and ways that we'd like to connect with you.

Let's get into today's episode, and as I said, I wanted to do some things a little differently today than I've been doing them. I thought I would just spend this particular episode talking about some of the big developments in bar review in jurisdictions around the country, talk a little bit about the July exams, and the results as they'll be coming up. Love to get your comments and questions after you've listened to this episode, because I know that there's a lot happening and a lot of thoughts going on.

Let me start with one of the big stories of the last few months, which has been the decision made in New York to switch the form of the New York Bar Exam beginning in July, 2016. They're going to switch from a state-specific exam, currently what they're testing, into something called the Unified Bar Exam, or the UBE. The UBE is made up of a series of shorter, 30-minute essays, along with two 90-minute performance tests. Those are given on a single day, Tuesday, and the essays come from the seven Multistate subjects of the Multistate Bar Exam, along with a series of a few other subjects that are all generic.

They're not state-specific, which means, if you've never quite understood what CPLR even stood for, much less what it means or how it works, you're not going to be tested on the bar exam about CPLR anymore, beginning with that new test. You'll still have to take a procedural test separately, but it sounds like it's going to be a compliance test more than an actual test of knowledge, and I don't think it's going to be any big deal for that part of it. In any event, New York's going to make this switch. What makes the decision to switch interesting, or at least a little bit controversial, is the way that it was presented generally.

I've written elsewhere, and I'll link to it in the show notes again. I did a blog post in which I said, "Basically, this is kind of a bait and switch. It's a three-card Monte game, if you're a New Yorker." The examiners and the state court judges that approve this indicated that one of the reasons they are making the change from the current form of the exam to the Uniform Bar Exam was because it would allow for easier transfer of bar exam scores. They were very clever in what they said and didn't say, but the assumption that a lot of people mistakenly made was that it meant that you could take the Uniform Bar Exam in another jurisdiction, and there are 14 or 15 jurisdictions around the country right now offering this test.

For example, you could go to Montana, take the UBE, and then just waive into New York. That's not true; you can't do that. What they really meant was, you could take the UBE in New York and waive into a jurisdiction somewhere else that would accept that score, but not that you could just waive in on the basis of your UBE score somewhere else. A lot of people got excited, because they thought, "Wow, I can skip this really tough, really difficult, New York Bar Exam with its low pass rate, and I'll just take it in a small town, a small jurisdiction, and waive into New York, and 'Whoo-hoo, I'm a New York attorney.'" Not so fast. Isn't going to happen that way. It's fairly complicated, a lot of details, and that's why that I suggest that you check out the blog.

I just want to point out to people that, that's not going to happen. If you want to practice law in New York, you're still going to have to take the bar exam in New York; that's number one. Number two, the UBE is a difficult test. I don't think it's as tough as the New York Bar Exam. We teach both tests, and we've got, I would say, roughly the same pass rate in both exams over a period of years. I don't think that they're, necessarily, wildly different in difficulty; however, the big difference is, the UBE is general generic law for the most part. Even subjects like domestic relations, that are tested on the UBE, are not state-specific law, obviously; they're Multistate, multi-jurisdictional.

I also like the idea that UBE has shorter essay questions, 30 minutes as compared to the 45, 50, 55 minutes that you might spend on an essay in New York right now. The performance test is exactly the same component that's it been before, except that there will now be two of them instead of one. It's still the National Conference of Bar Examiners Multistate Performance Test, so that piece stays the same under both tests. In both tests you still have to take the Multistate Bar Exam, the 200-question, seven-subject, multiple choice exam, on Wednesday. The actual scoring, the grading that you'll need to pass the bar exam's not been publicly announced yet. That obviously could make a difference.

I don't see any indication that that number is going to be lowered. In other words, that a lower performance on the UBE would qualify you to pass the exam, as compared to a comparable performance on the current New York Bar Exam. I guess my real point is, if you thought that waiting until that exam would somehow make your life easier, maybe a little bit marginally, but you're not going to do an end run on this. You're not going to get a lower score, you're not going to be able to take the exam in a different jurisdiction. The things that it got hyped with just aren't so, no matter what those nice people that are above the law have to say. I think that it bears watching. We've still got an exam in the current format, in February of 2016, coming up that will be a standard New York Bar Exam.

I'm advising people, that if you're ready to take the bar exam in February in New York, go ahead and take it. I don't see any particular reason to wait. I think, because we don't what the scoring thresholds will be for the UBE in New York, there's really no advantage to waiting for that test on its own basis. In other words, if there's a reason to take it in July rather than February, take it, but don't do it because they're changing the form of the exam. I'd also tell that because we've been teaching the UBE for a long time, for our students who are signed up for New York in July, we've already got them studying UBE materials, so no delay there in our course, and hope that's helpful.

That's what happening in New York, and I guess I jump across the country to California for a minute, because California doesn't want to let New York have all the headlines. California Bar examiners did something that I think was just particularly, I don't know that I'd call it nasty; it was just odd. The night before the July, 2015 bar exams, California picked that particular time, "Oh my, what a coincidence," to announce that they were changing the format of the bar exam coming up in 2017. I mean, really, this couldn't have waited three days to make the announcement? Essentially what they're going to do is that, the current California Bar Exam is set up over three days, and it's got three essays on day one and a three-hour performance test in the afternoon of day one.

There's the Multistate Bar Exam on day two, same as everywhere, and then on day three they repeat the pattern of day one with three essays and a performance test. In the new form, what's going to happen is that they're going to shorten the test down to two days, which is, I think, a good move. They're going to go to five essays, a little bit shorter on each essay, rather than the one-hour essays, and one 90-minute performance test. I'm guessing it will be the Multistate Performance Test, but California's idiosyncratic; they might decide to write their own 90-minute performance test instead of writing their own three-hour performance test, not clear yet what they're going to use.

In any event, you'll be moving this bigger test down to a shorter test, and again, we don't know what the passing score, the thresholds, are going to look like. We're not really certain what else will happen there, doesn't look they're going to cut down on the number of subjects at all. You're still dealing with probably 18 or 19 subjects that are potentially testable, but going from a one-hour to a shorter 45-minute essay format, makes it look more like the Georgia Bar Exam, for example. Again, that may have some impact. If you know anything about the various states, California's got by far the lowest pass rate across the country.

I often get the question from people, "Does that mean it's the hardest test in the country?" I would say that's not necessarily the case. California has the most people taking the test, and, in my experience, they have an awful lot of people who are not terribly well-prepared or qualified to sit for the exam. I don't know that the test is, in and of itself, that much more difficult than any other state. In other words, I'm not sure that it's really more difficult than New York or Texas or Florida, but there's an awful lot of people taking the test who are really only marginally prepared, and so the pass rate goes very, very low for that group of people.

For a typical, traditional, first-time bar taker from an ABA-approved law school, the pass rates across the country in all these exams tend to be in the 78 percentile. It's the weight of the repeat takers and the people who've gone to non-ABA-approved schools in states like California, or unaccredited schools entirely, or online correspondence schools.

Those are the people who have real trouble, or foreign attorneys, and foreign attorneys have tremendous difficulty with these exams in New York and California and Texas. When you put all that together in California, it just drags the pass rate way down into the 30, 35 percentile range overall, even though you've got some groups that are clearly doing just as well there as they would do in New York or Texas or Florida or Georgia, or any number of other jurisdictions.

In any event, this changes a long way out. We've got all of the exams coming in 2016, no changes there, so definitely don't think it's worth waiting to sit for this new, reformed California exam when it comes out in 2017. Moreover, we don't know how they're going to score it, so it's hard to know that there would be any qualitative difference at all. As we get that information, obviously we're going to share it and make it available to those of you who are in our course and listening and coming along with us, so big changes there.

Some other changes in California are some moves afoot to make some of these state-accredited and unaccredited law schools, requiring them to be more transparent about their pass rates and their graduation rates. Startling statistics about the very low number of students in the online

and state-accredited schools who are not graduating from law school at all, because they can't get through the California first-year exam, the Baby Bar Exam, or just dropping out. I think in general that's probably a good idea to be transparent, to let people see what they're getting into. My view has been, for many years, that trying to take a short cut to do this is probably not the most effective way to get into the bar.

I understand that, for reasons of logistics and economics, there may be people who just don't have a choice, and I've worked with a lot of those people who've been successful on both tests and are very successful in their practice of law. I've also seen a lot of people who probably never should have gone to law school and took the test and realized that they just weren't anywhere near qualified and dropped out of school, and have essentially forfeited that tuition money and time and effort. I think in California they're trying to avoid that becoming pandemic or epidemic in size. We'll see what happens. It's an interesting move.

Speaking of epidemics or pandemics, we've got a bunch of reciprocity fever in Florida in the last month or so. The Florida Bar elected its new president of the bar, who in his inaugural speech to the bar had the temerity to propose that attorneys from other states should be admitted into the Florida Bar without taking the Florida Bar Exam through reciprocity. I found this to be an absolutely astounding proposal coming from the Florida Bar, where there are already too many lawyers and not enough jobs, and too many lawyers and not enough work.

It's suddenly saying, "Let's open the floodgates to several hundred thousand lawyers from around the country who would like to come to Florida or open a practice or have a law license in Florida," seems like really a suicide message for members of the Florida Bar. I guess, not to my surprise, but apparently to the surprise of the new Florida Bar president, over 100,000 members of the Florida Bar said, "Hey, no, you've got to be kidding me," and they were outraged that this had not been discussed or proposed or put out in public at all, just dropped on them as a possibility. Here's where we stand today: it hasn't happened, I don't think it's going to happen.

I think that the blow back from this proposal, if he was trying to float a trial balloon, I don't think the balloon got above, maybe could be the second story, and it just got annihilated. While there's some media support and there's some people, and obviously a lot of people who are not members of the Florida Bar think it's a great idea, I actually have not talked to anybody within the Florida Bar that thinks it's a good idea. I don't know anyone who's saying, "I want more competition," or "I think the future members of the bar should not have to go through what I went through."

I recognize that the Florida Bar is a miserable process, taking the Florida Bar, and I clearly have a vested interest. It's a big part of our business to service that audience, but still, it does serve a purpose both in terms of assuring some degree of competency and minimal ability. I've worked with a lot of attorneys who probably are so specific in their knowledge of one area but so wildly uninformed about what the law is, generally, these days. I'm not sure that they should necessarily be moving their practices and setting up and going to practice in new fields without taking the bar first.

We'll see what happens with this, but again, if you're, let's say, a New York attorney and you've decided that you know what you're going to do, you're just going to sit back and wait for this reciprocity thing, I think you're going to grow very cold and very old waiting for it to happen. I would be really stunned if this happens anytime, much less in the next few years. It is definitely not on the horizon for anytime soon, I can tell you that. It was funny to actually watch the stampede back away from the proposal once it had been floated, so don't think that's going to come to play and come to be something that's going on.

Through big jurisdictions, Florida, California, New York all discussing or making some changes in their bar exams and their rules, which isn't to say that things aren't changing elsewhere, but there's still a fair number of jurisdictions that are pretty stable, haven't changed a whole lot. If you're a Texas or a Georgia bar taker, your life's pretty much the way it's always been, the rest of the UBE pretty much the way it's been, New Jersey pretty much the way it's been, so just a few of those jurisdictions.

I think I want to just wrap up with a brief couple of thoughts about the recently completed July, 2015 bar exams. They are now in the books, and we're now waiting for results. As I said, the first of the big jurisdictions that will announce results, thought not the first in the country, but the first of the jurisdictions will be Florida, in mid-September. Then we should see New York and Texas, usually early October. We won't get California results until just before Thanksgiving, so way late in November. Georgia also comes very late in the game. New Jersey will be somewhere around New York's release dates.

The Uniform Bar Exam jurisdictions are all over the board. They are some of the early jurisdictions that report, typically, because they're smaller, so they're typically earlier in the season, September to early October. The feedback from students in our course and in our Facebook group was generally pretty positive. There were no wild, crazy surprises. There were no disasters. There was no problem with computer software this time. There were no earthquakes, blackouts, or other disasters, at least that I'm aware of, at least not on a large scale, and that's all good news. I would

say that there was some commentary about the multi-state and the addition of civil procedure, although this is the second test where civil procedure has been on the Multistate.

I think some people were so hyped up looking for it, that they saw it behind every question. It really wasn't; there were only 27 federal civil procedure and jurisdiction questions in total, but I had students writing me, saying, "I saw 45 questions with civil procedure," as though they were counting. I think what happened is that they were so looking for it, that any question that had any procedural part in the question, they thought it was a civil procedural question, but that's not the case. Looking at our February, 2015 results for our course, civil procedure didn't make a bit of difference in the MBE scores at all.

In fact, most of our students' scores went up as a combined aggregate total, so, to me, I thought the trade-off of getting rid of, for example, six or seven property questions, in exchange for six or seven civil procedure questions, was a net plus. I think it actually worked out that way for a lot of people, is that they actually picked up some points, perhaps, from other times. There was some commentary about that, but not a great deal. There were some weird things in different jurisdictions. Florida did some strange things, and we'll talk about those separately later. They flipped some subjects that have historically been tested in essay format, and they put them in multiple choice format. That was an interesting change.

California, no big surprises. New York, no big surprises. Texas, no big surprises. Georgia is really a tough jurisdiction; long questions, short period of time to answer them, multiple topics on a lot of essay questions. I've got to say, Georgia doesn't change a whole lot, but it's a tough exam. I think they recognize that they're a very desirable for people to come and practice, and they're really tightened up this test. There was a time when I would say it was one of the easier exams; it is definitely not anymore. If you're thinking about Georgia, get started early. It's a big exam with a lot of testable subjects.

Across the board, though, we didn't see much of note, frankly, not much that changed, not much to be on heightened alert. I think that, in general, Celebration Bar Review students felt like they were very well prepared. They understood what was coming, not any huge surprises anywhere, and people reported back to me actually feeling pretty good about all of that. In Episode 17 of this podcast series, I produced and released the audio to a video I did called, "Should I Post More on the Bar Exam?" I encourage you to check that out if you took that test and you're wondering, "What do I do now?"

In any upcoming episode, I'm going to talk about how you can determine whether or not you passed or failed the exam before the results come out, so that's an interesting message. In any event, many of you are just hanging out, waiting for results, and that's good. As they start to come out, we'll be talking about those in the podcasts as well. That's what's happening. Hope this is informative and helpful for you. Anxious to get your thoughts and feedback, so, by all means, drop me a note at [jackson@celebrationbarreview.com](mailto:jackson@celebrationbarreview.com), or, as I say, leave a rating and a review on iTunes.

Love to hear from you any way that you'd like to communicate with us, and I do hope that these episodes are helpful to you and encourage you and give you some additional information as you move forward. Thanks for being with me today. It was great to be alongside you as you're going to the gym or taking your walk or driving to work, or doing whatever it is you're doing around the town, while you either get ready for or wait for your results. Thanks so much, and we'll be back to you again next time.