

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. Now, your host, Jackson Mumey, owner of Celebration Bar Review.

Jackson Mumey: Well hey, everyone, welcome to The Extra Mile Podcast for Bar Exam Takers. This is Jackson. I'm so glad you're taking time out of your day to spend a few minutes with me and talk and think a little bit about the bar exam, which I know is a little bit like talking and thinking about having a wisdom tooth removed. Nonetheless, here we are. We are right at the end of the February 2016 bar exams. Today's episode is going to be five quick lessons that I think we've learned from last week's bar exam. This is sort of the very first sort of flash response to what's going on.

Coming up in later episodes, I'll dive deeper into most of the major exams, Florida, California and New York, Texas, Georgia and the UBE and just sort of look a little bit deeper what was tested and how it was tested. For today, I just want to do kind of an overview of the exam and some thoughts as I had as I spoke to students last week as they were going through the testing process. That's what we're going to be diving into today.

I do want to let you know if you were looking for an episode earlier this week, we've been doing two episodes a week since we started. We're up to episode seventy-one, which is pretty amazing to me. In the month of March historically I take a little bit of time off to just decompress after the bar exam, so for March I'm just going to be doing one episode a week and our plan is to release those on Thursday right after midnight. If you were looking for an episode on Monday, I'm sorry, you get one on Thursday this week. When we get back into April, we'll pick back up with the twice a week.

In March we're going to be talking some more about setting goals for the next bar exam. We've also got a really fascinating interview coming up with Bill Harris, the founder and president of Centerpointe Research Institute. They're the people that do the Holosync audio meditation program that we use in our course. Really excited about that. We've got some surprises and some cool stuff coming up, so I wanted to let you know all about that.

I also wanted to let you know that even though we're taking a little bit of time away in March, we'll still be offering our master class called How To Make The Next Bar Exam Your Last Bar Exam. It's easy to register for this class. It's a ninety minute free course that will take you through the four steps that passing bar takers need to process and go through in order to have great results. We'll be offering that online at your convenience for the next couple of weeks. To register, all you have to do is go to celebrationbarreview.com and on the front page you will see a button that says Claim My Seat. Just click on that and schedule the time that works best in your schedule and you'll be all set up with the full ninety minute class. We encourage you to sign up for that.

I'll be back to do live versions of that master class the middle of March and I'll have

some information then, but for right now you can go online today, grab that and watch it and I think it will be really helpful for you if you're just starting to look at the bar exam. I also want to let you know that today's episode is being sponsored by our Extra Mile Facebook group and at the end of today's message I'll be telling you more about that Facebook group. it's a special subscription group and the benefits to you to be a member of the group. I hope you'll stick with us for that information.

Let's turn then for today to look at five quick lessons that we've learned already from the February 2016 bar exams. This is by no means an exhaustive list, nor is it necessarily maybe the five biggest lessons that we'll learn, but it's the five things that really jumped out at me last week as I was monitoring ... Kind of a little bit like being an air traffic controller. You hand off the controls to the pilot and say land the plane and then you watch the planes land and you hope that they all land safety.

We did a poll on our Facebook group and we asked people was the bar exam harder than you expected it would be, easier than you expected it would be, about what you expected? The interesting statistic to me was that the vast majority of people thought it was about as hard as they expected it would be. No one thought it was easier, which is not a great surprise, but relatively few people thought it was harder than they expected. I thought that that was an interesting sort of overview.

Let me give you the first of the five quick lessons that I took away from the February exams. The first is that this test can be wildly unpredictable. It can be wildly unpredictable, and you know this if, for example, you are a Florida bar taker, and we've got a lot of Florida bar takers that follow us. It's one of the states that we specifically prepare students for. If you weren't in Florida, you might have had some unpredictability in your exam as well, but I can tell you that the phone lines and the email and the text messages were buzzing on Tuesday when the Florida topics had been given, the essay topics in the morning, and here's the reason.

Historically, Florida has been one of those states where you could look at several different topic areas, torts, contracts, property, and then Florida Constitutional law, trusts and Florida domestic relations and you could say that's pretty much the subjects, with a little bit of crossover with the UCC and Ethics. You could be pretty comfortable that most of the test essays would fall in that range. In fact, for the twenty-five years that I've been teaching, so over fifty exams in Florida, that's been almost always the range of testable essay topics.

Not so on this last exam. On the last exam we had a couple of very strange topics. One of the questions was Federal criminal procedure, the Red Line Rule, if you're familiar with that and lineups and Miranda warnings and so on. If you're in a state like California or maybe Georgia, you would say that's not a big deal, we always get tested on that, but that has not been the case in Florida. It was wildly unpredictable and caused I think a fair amount of consternation.

That would have been tough enough on its own, but there was another question

that dealt with Federal Constitutional law. As I said, Florida tests Florida Constitutional law pretty frequently, but a Federal Constitutional law question is very unusual and one of them came up in this exam. Two of the three essays were really surprises to a lot of people. Why do I make a point of that? I had told our students beforehand that I thought that the most important thing to do in preparing for the exam was to not try and memorize outlines and checklists, not to be issue spotters, but to be writing in terms of disputes and conflicts.

If you're part of our course you know that that's a lesson that I hammer on pretty repeatedly. My advice to our Florida students before the test was very clearly that I wanted them to simply open the booklet, look at the problem, take the first dispute and write about that, and then the next dispute, and then the next dispute and so on, and flip the page and do the same thing and not to worry about what the actual topics were because that would really throw you off and if you hadn't prepared an outline you were in big trouble for it potentially.

The responses I got back from our Florida students after the Tuesday day were, "Wow, those were weird questions, however," and that's a big however, "I was smiling at the end of the day. I felt like I handled it and I did what I was supposed to do and I wrote about the problems and I used the facts and it went pretty well for me." Here's my point to those of you that didn't take that approach or weren't thinking you would use that approach. If you're trying to prepare for your bar exam in any jurisdiction, by having a memorized check list, an attack outline, some sort of pre-determined I'm going to be looking for this on the test, I think you're in big trouble.

I think the bar examiners simply are not willing to be predictable anymore. They're not willing to simply do the same old thing year after year after year, and Florida tends to be a leader in this I think among bar examiners when they sit down and they have bar examiner brunch. I think people look at Florida and say, "What are you guys doing?" "Well, we tossed it all up in the air and came up with some brand new subjects that were on the list to be tested but had never been tested, and gosh, that was a lot of fun." I mean that's at least what I imagine them saying to each other. Maybe it's more adult than that. In any event, I think if you see it in Florida you're likely to see it in other places.

I just want all of you as you're preparing for the July exams in 2016 or maybe your testing in 2017, don't try to predict what's coming. It's really a fool's game. I say that as the biggest fool, because I make predictions and I certainly didn't predict those subjects in Florida. However, to my defense I did call all of the topics in Georgia and it looks like I got I think four or five of the topics out of six in California. I was spot on in New York, so I did pretty well, but, having said all of that, it's just a wild guess.

The fact is that the test is unpredictable. That's the first lesson that I think we can take away the exams. You don't know what's coming and you can't prepare by just saying I'm going to have an outline for every subject and know exactly what to

write when I see that issue or that particular topic on the exam. That's our number one lesson.

Number two lesson, thanks to our friends at Above the Law ... I think they just sit there waiting for things to go wrong so that they can be snarky about it and smarter than everyone else and remind us all that they went to Harvard and Yale Law School. Nonetheless, they came up with a couple of things that I would describe as just way too much drama. My second lesson from the February 2016 bar exam is there's going to be drama at the bar exam. Every year I warn students to be aware of all the things that can go wrong, technological problems that can happen.

You might remember a few years ago that ExamSoft didn't work one night to upload essay. There were issues around that in certain locations around the country. Again, our friends in Florida, it was impossible to upload your materials from the convention center and so people had to rush home or rush back to their hotels trying to get online. As far as I know, everybody got theirs uploaded. But Florida was really nothing compared to some of the drama we had in a couple of other states.

In the District of Columbia, the proctors can't tell time. This has happened before. This was not the first time, but on this particular exam the proctor ... This is a relatively small test. The proctor that was in charge insisted there was an hour less time on the essay day than there really was, so people in the room started arguing with the proctor. The proctor went to get a supervisor, and of course the drama unfolded. Finally the proctor announced there was an extra hour and then still messed it up and there were fifteen minutes missing. Some people put in too much time arguing. Others, of course, were free riders and just kept working through the drama. Those were a couple of our students I think that worked through the drama, but clearly there was drama and it was a problem.

I guess one of the things that I would tell you is that when you get into those situations just keep your head down and keep working. There will always be an gunner in the room who is going to take on the examiners and the proctors and make a scene about it. Let them do it frankly. It's not your problem in that sense. It's clearly your problem if they take away the hour. Ultimately they got it fixed, and I think that's the truth in most of these things. DC is weird about time. In one of the exams they put the clock around the corner where no one could see it and the proctor couldn't read the clock properly. I don't know what's going on in DC, but really they've got to pick up their game over there.

Just up the road in Maryland, they had some drama there too. Apparently, while they were giving the bar exam, in a room adjacent to the bar exam they were having a gun training exhibition or something in which live rounds of ammunition were being fired. I don't know about you, but I don't really think I want guns being fired while I'm trying to take my bar exam. You've really got to wonder, was somebody totally asleep at the switch? "Hey, we're going to put a bar exam in here.

Let's put a gun show right next door to it." That makes a lot of sense, doesn't it? Again, more drama, more things going on.

So far as I know, there were no earthquakes in California this year, which is good. There was no horrific weather in Albany or Buffalo, New York, which is always the way that New Yorkers manage to punish those who are not New Yorkers and have to take the bar exam. By the way, here's a message. If you're not living in New York and you're going to take the New York bar exam, if it were me I would always take the July exam just so I didn't have to travel to Albany or Buffalo, which is where you'll be assigned, in February. I don't know, just me.

In any event, I think you can say that there's always going to be drama at the bar exam. There's always people who are breaking down. I've heard stories of people who are sobbing and collapsing in tears, throwing things, breaking computers. To be honest, after a while that just gets to be the norm. If you think that you're going to be drama-free at the bar exam, I would say probably not. Your goal is to just keep working and don't get locked into all the drama that's going on around you. That was the second less.

The third lesson that I take away very quickly from the exam is that ethics, professional responsibility is, to quote a current presidential candidate, "a huge topic". I mean it is big. I think that this is a public relations step on the part of may states' bar examiners. They simply want to be able to say to the public, "Look, we are making sure that new members of the bar are tested and responsible when it comes to professional ethics." So what they're doing is ... Professional responsibility is just jumping in over and over and over as a crossover topic on exams. We saw it in Florida, again. We saw it in California. We saw it in a number of states. It's also part of the MPTs, the performance tests. It's just a big, big topic.

Look, if you're not writing about it, if you're not studying and being prepared for it, I think you're putting yourself at a disadvantage. Here's the one takeaway that I've got about ethics generally. The ethics part of the question is never a who's moral or who's more moral or can give the most moral answer. It is do you know that set of rules? It is no different than looking at evidence or civil procedure or any other set of rules. I think the reality is that it's just a set of rules and you've got to know them and you've got to study them.

My advice to students was to write the ethics part of their exams first if they saw it on a crossover in their essay writing, and I had a lot of reports from students who did that and said it felt like that was a big win for them to do it that way. Get it out of the way instead of leaving it to the end and just giving a one or two sentence overview, which wasn't going to be sufficient. Ethics is a big subject. It's something you definitely want to study and make sure you're ready for.

The fourth lesson that I take away from the February 2016 exams, which is not directly related to the exams but happened about the same time, is that the push back on the uniform bar exam has already begun. Oh, my goodness, there is

nothing like a New Yorker to have a sense of entitlement and a sense of superiority. I say that having lived in Manhattan for about ten years, enough so that I feel able to say I'm sure I know everything there is to know about the bar, I went to New York.

However, in New York they are already starting to scream that the uniform bar exam which will start in July of 2016 isn't going to have enough New York centric law and the New York multiple choice that will be done after the bar exam, open book, online, at home ... Go figure that. That's going to be tough, right? That isn't going to be good enough to make sure that new attorneys really know New York law. I mean you can already feel it coming.

Some of these big states that have decided that they were going to start switching over to the UBE, there is going to be real push back from the bar in those states to say this is not right because these new applicants, these new attorneys, will not know the specific law of our state. I point that out only because I think one of the continuing stories through 2016 and 2017 will be how far will the uniform bar exam spread. We've certainly seen it grow this year with the addition of New York and DC, South Carolina. We're up now to I think about twenty jurisdictions, but most of them, with the exception of New York, are very small jurisdictions. We're still not seeing much movement, if any, in California, in Texas, in Florida. Those are three big states. We're not seeing it in Ohio. We're not seeing it in Georgia.

I don't know if we're going to get it, but I think you're going to see a lot of push back, particularly in New York, over the next few months that somehow this test may not be the panacea that it's being pointed out or portrayed as. In addition, if you were thinking that it would be an easier test with lower passing thresholds, I definitely don't see that coming. It's not going to be the case, and you're not going to take the UBE in Wyoming and waive into New York. If you were thinking that that was going to happen, not so.

I think watching the UBE as we looked around the country in February of 2016, it's a tough exam. It's got plenty of meat to it, lots of essays, thirty minute essays, the two MPTs. It's a lot of material to get covered. Then a few states tack on their own little piece to that, which makes it even more challenging. I think one of the lessons that we take away from the February exams is that we've not heard the last of the UBE, but we are not going to hear a lot of love for it in certain places.

The last of the lessons that I think is worth considering is that as I think about the bar exam and how people seem to respond leading up to it and then going through it and now the early feedback when we finished, is that the exam commands commitment. There might have been a time when you could take the bar exam kind of wandering in to take it. I'm so brilliant, I'll just study for a weekend or two before. Sort of like a character in a John Grisham novel, I'll just open a few books and then miraculously go and take the bar exam and pass, which is great if you're John Grisham or one of his characters, but in the real world that we live in that doesn't work anymore.

What I'm really convinced of is to pass the bar exam takes a commitment of time, it takes a commitment of money, and it takes a commitment of belief. If you're not putting in enough time, you're just not going to be successful on this exam. I really cannot emphasize this enough. If you're thinking about taking the July exam in 2016, you need to start now. You needed to have started a week ago. You must get underway. If you're thinking you're going to wait until six weeks and do it all in six weeks, you're delusional. It just isn't happening, and the pass rates are telling us that consistently across the country.

Secondly, if you think that you're going to get through the bar exam by just using some old materials, picking up some free lectures on the internet and maybe listening to our podcast, I'm flattered about all of that and we provide lots of materials out there for free, but I've got to tell you, it's not enough. If you're not willing to make the investment of money in a competent course, I think you're really in trouble on this exam. I just don't think that we're at a point where people can just stroll in and say I self-taught myself. I don't see that happening, and I don't see people successful that way. In spite of the urban myths to the contrary, the reality continues to be that you need competent preparation to get ready for this exam. It was a tough exam across the country. Nobody said the bar exam was easier than I thought it would be.

Finally, I think you need commitment of belief. You've got to believe that you can pass this thing. Inevitably, the people that I spoke with in the week leading up to the exam who believed in their ability were the ones coming back from the test saying, "Wow, it really went better than I thought it possibly could." A lot of them were repeat bar takers who said, "You know, I went in and it was a different experience than I had before." We had students in Texas who said, "You know, I went in, I did this, it felt so different than what it had been in the past. Then I looked around and I saw all these other people that had taken the bar before with me who hadn't acknowledged that they failed, but here they were, so now I knew they had failed as well. They were just going through the same routines and they were just as freaked out as they had been before."

You've got to have a belief in yourself and in the system that you're using and the approach that you're taking. I think if you don't have that ... If you went to the exam last week expecting to fail, the odds are pretty good that you did. The test is tough and it really doesn't give enough leeway for people that do it kind of halfway and put in a halfway effort of time or a halfway effort of their financial resources or a halfway effort of their beliefs. I definitely think that this is a test that demands commitment.

Those are five of the quick lessons that I've taken away from the February 2016 exam. I'm sure you've got some as well. I'd love to hear about them. You can go to our podcast site on celebrationbarreview.com. There's a link at the top of the page there. Click on podcasts for our show notes and all of our past episodes. It's also a place to subscribe and leave your comments.

If you're concerned about doing a post mortem on your exam, if it's something you've been thinking I really want to talk about the exam, I want to just remind you that back in episode seventeen we did a lecture just on that very topic, Shall I Post Mortem The Exam? That was episode seventeen. I encourage you to go back and check that out. Also, we did an episode a while back about how do I know if I passed the exam? That's kind of an interesting question. Why do I fail, or do I know if I failed? How do I know if I failed?

That's episode twenty-four, How Do You Know If You Failed The Exam. Episode twenty-eight is Waiting For Your Bar Exam Results. Seventeen, twenty-four and twenty-eight, all good numbers, all good episodes for you to check out. I encourage you to do that, love to get your comments, love to have your honest rating and review for this podcast series and episode. Now I just want to jump over and spend a minute and tell you about our sponsor, The Extra Mile Facebook group.

I hope you found today's podcast valuable. If you did, I'd like to invite you to subscribe to The Extra Mile Podcast. You can do that in one of two ways. You can go to iTunes and subscribe there, or you can go to our website, celebrationbarreview.com, click on the podcast link at the top of the page, where you'll find our show notes and all the past episodes, and you can subscribe from there.

If you'd like ever more of The Extra Mile than we offer in these podcasts, I want to also invite you to join our private Facebook group called The Extra Mile. This is a community of current and past successful bar takers who've come together for advice, support, information and some terrific resources. We've put together The Extra Mile as a monthly paid subscription offering. I want to just share with you some of what's involved and some of the benefits you're going to receive when you join The Extra Mile Facebook group.

First, and I think most significantly, you'll receive access to our popular economic Bar U course as part of the membership. Bar U provides digital lectures and outlines and selected questions for seven state bar exams, California, New York, Florida, Texas, Georgia and New Jersey, in addition to all of the uniform bar exam jurisdictions and the multi-state bar exam. Membership in Bar U alone would normally cost you about a hundred dollars a month, but it's free with your paid subscription to the Facebook group. I think you'd find this a great way to just have access to substantive current material, lectures and outlines for all of the subjects that are on the bar exam.

In addition to that, member of our Facebook group receive access to our online writing workshop course that contains four lectures on essay writing, plus sample questions and model answers. That course sells for ninety-nine ninety-five all by itself so definitely a value when you're part of the Facebook group, and all of our Facebook members will receive free seats for three brand new master classes we're doing this year. These are being offered to the public actually for sale for fifty

dollars per class, but they're free to our Facebook group members.

The topics of these new master classes, which are presented in conjunction with our partners at Learning Strategies, will be on Abundance for Life and Living the Law of Attraction and Rapid Reading Made Easy. They're three topics that I've extensively taught as ways to enhance and improve your bar exam scores and your study, and I think you're going to find them really valuable.

In addition to all of that, our Facebook members will get my proprietary exam predictions for each exam and you'll receive our exclusive video countdown leading up to the upcoming bar exam. On top of all of that, and maybe even most significantly, you'll get the support and the advice that comes from a community of people who really want to see you succeed on the bar. Our past bar students who have been successfully have generously agreed to come on and offer their insights and advice and I come into the site on a daily basis to offer additional resources and to do Q&As.

I really encourage you to check this out. In the show notes you'll find the link to sign up for this Facebook group. One other thing about it, there's a five-day free trial, so you can actually sign up and not have anything charged until you've been able to experience it for yourself. But when you take all of the benefits together, it's several hundred dollars worth of resources available for only seventy-seven dollars a month. There's no requirement to continue the subscription. It's every thirty days until you cancel. I really invite you to join us there on The Extra Mile.

That's it for today. Thanks for being with us, and we'll see you on the next episode.

Speaker 1:

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