

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 Mumei, owner of the Celebration Bar Review.

Jackson Mumei: Hey, everyone. Welcome to episode 37 of the Extra Mile podcast. This is Jackson. Glad you're with us today. I have planned in this episode to do kind of an ask Jackson set of questions and answers. But in the way that the bar happens, New York bar results came out early this morning and I know that there's a lot of controversy and a lot of discussion about those results. Earlier in the day today, I made a Periscope recording which I got to just say, I mean, how cool am I as an old guy? I'm doing Periscope recordings. But in any event, I also know that virtually no one that follows me is probably using Periscope.

I thought this information was important to share with you. I got to tell you upfront that the quality of the audio is not great. I recorded it in the coffee shop so you're going to hear a little bit of background noise. I hope you can live with that and hopefully my sound editor can make some sense out of it and reduce it so that it's manageable. But I did think that it was important to talk about what's going on with the New York bar. The results were bard across the board. In today's episode, I'm going to talk about four theories about why it's happening and give you my take on it and kind of show you how I think that all fits together and where I think you can go from there if you're a New York bar taker.

Now, if you're not taking the New York bar or didn't take it or don't plan to take it, this is still actually a pretty useful discussion because I am talking about some general trends, not just the New York specific exam but trends across the country with the National Conference Bar Examiners and how exams are being scored in big jurisdictions like New York, California, Florida, Texas and so on. Then talking even more specifically about how preparation, the traditional typical bar review preparation is really letting people down. I really encourage you to listen even if you're not a New York bar exam taker.

We're going to jump into that here in just a moment. I do want to invite you however if you are planning to take the bar or now find that you need to take the bar again to join me on Thursday for a live master class called how to make the next bar exam your last bar exam. This is a 90-minute free training session in which I'll walk through the four steps that I found really consistently pay off for people who pass the bar exam. There's no charge to attend this free webinar but registration is limited. We need you to register online by going to celebrationbarreview.com/webinar or you can text us if you'd prefer. Go to 33444 and text in the phrase nextbarexam. That's all one word, nextbarexam, and text that to 33444 and you'll be registered or you can go to celebrationbarreview.com/webinar.

I do hope you'll join me for that free training. I think it's even more important right now with all the things going on in the bar to really be locked in and have a consistent proven study approach rather than just sort of a tilting, windmill sort of waving wildly at pinatas while you're blindfolded and staggering around, twirled around so that you've lost your sense of direction. I think an awful lot of bar takers are feeling that way. I invite you to join me for that. Also want to just let you know that all of our past episodes of the Extra Mile podcast can be found on our website at celebrationbarreview.com. Just click on the podcast link at the top for past episodes and the show notes. I'll link in the show notes for today's episode to some of the information about the New York bar so that you can follow up on that as well.

Of course, you can subscribe to our podcast on iTunes radio. I invite you to do that. Let's go ahead and jump in to today's discussion of the New York bar exam and then we'll wrap up and I'll give you some finishing thoughts about how you can join us online on Facebook for our private Facebook group as well.

Hey, everybody. This is Jackson Mumey, Celebration Bar Review. New York bar exam results just came out today. I thought it might be a good time to just do a quick Periscope and just talk a little bit about what we're seeing right off the newswires if you will. I'm here in a coffee shop just hanging out and trying to gather information today. If you got comments, let me know. Here's the gist of it. The results were released shortly after midnight last night. It's probably short of a train wreck for the vast majority of people. The overall pass rate was in the mid 60% but that's really a misleading number because the repeat bar taker number was much, much lower and the really staggering number was for foreign trained attorneys.

What we saw in New York was the foreign trained attorney pass rate for first time and repeat bar takers was 33%. That's environment low for repeat bar takers or foreign trained attorneys. I think it's probably got to turn out to be 15, 20%. That is a massive drop. The drop across the board in New York, this represents probably the lowest overall pass rate that we've seen in a very long time in New York. Now, there's a lot being written and said about why the pass rates are coming down, the National Conference of Bar Examiners are saying, "Well, we have a less qualified group of bar takers. The law schools were admitting those individuals ..." that's not really so. We're giving people an opportunity to law school who might not otherwise. There's not really a correlation between the two.

I think that the truth lies between those two. The for profit law schools, the ones that are really sort of on the edge I think are probably pushing it when they accept some of their students to be sure. I've worked with some of those students and I've worked with number of them who passed the bar exam in states like Florida and California and New York. It's certainly possible to do. I don't find those students to be less intelligent or less dedicated or less motivated but I do find the quality of the legal education they get is really low.

Their writing skills, their analytical skills, their ability to really get a sense of what's going on may not be as well developed. They just simply haven't had the exposure.

But I think a student in a higher rank, more traditional law school might have had, this is not wildly different than what we've seen Georgia over the years, with the Georgia State schools like John Marshall and Atlanta Law a few years ago before they were fully accredited schools, or in California where we've got the state accredited and the correspondents law schools. We see students out of all of those schools who pass all the time. I'm not entirely convinced that the problem really is that we've got a lower performing group of bar takers. Does it have some impact? Well, undoubtedly. But not enough to show these overall big numbers.

The second possibility is that the test itself got harder. Now, that feels intuitively like it should be right but I don't think it is. When we look across the board and we teach Florida, Georgia, California, Texas, New York, New Jersey, the UBE, when we see all of those scores, we're not seeing big drop off at all in our student scores. In other words, we are not really dealing with a whole of folks that I would say, "That exam is just too difficult and they can't do it." The addition of civil procedure on the multi-state I think was actually in that positive and statistically it turned out that way for our students, at least in the jurisdictions that we are currently getting reports on.

The reason for that in my view is that federal civil procedure, federal jurisdiction are rule based. Because they're rule based, I think, if I had my choice, I would rather have seven questions in civil procedure than seven questions in the property or evidence. I'm laughing because someone just asked me if I'm Bill Gates. I get that a lot. Really? Couldn't you have confused me with somebody that's much more attractive? Anyway, as we look at what's going on in the world of exam itself, is the exam tougher? Well, I don't think it's necessarily tougher and the feedback from my New York students after the July exam was not that the exam was tougher. I mean, there were a few subjects that were a little more challenging and not as expected as usual, the big five or six essay topics didn't all showed up. I think that in reality, the test was slightly harder. But again, not substantially harder.

If it's not the bar takers, if they're not stupid or the test is not harder, what else? I think the third option is that the grading of the exam is becoming more difficult. Look, here's the real problem if you will in the sense with how the bar exam is graded. Essays are graded, for the most part not by bar examiners but by hired individuals who come in to read a certain number of essays on a particular questions. They're trained and they're taught how to work through those essays and how to give them score but the reality is that the people that are doing this work and across the country, the average pay to be a bar exam grader, brace yourself, is \$3.10 an essay. My cup of coffee, yeah, I got more

attention for this cup of coffee than you got on your bar exam when it was being graded in most states.

The reality is that the people who are doing the grading are often people who do not have legal work. They pass the bar, not necessarily even on their first try but they passed. They're the ones grading it. I'm not saying they're cheating or they're doing something wrong at all. I'm just saying they don't have much of an incentive to make your life wonderful and to give you a nice, high sweet score on the bar exam. It's clear that there are too many people taking the bar and too many people wanting to get into the bar to be accommodated by the number of jobs that are available. The natural response to that from the bar examiners across the country including New York has been to strengthen or make more stringent the standards for the exam itself.

What might have gotten a 50 scaled score in New York a few years ago now gets a 45 or a 48. Those incremental differences do in fact affect pass rates. The exam isn't harder, the bar takers aren't worst but the grading is tougher than it used to be on the essays and on the performance tests. I can tell you that from 25 years of experience on the New York bar exam, I'm seeing people whose work in practice I would have given a 60 or 65, now, I'm seeing their results coming in and they're getting 50's or 55's. The quality of their work didn't change. The question didn't get harder. It's just that the quality of what the examiners are expecting has definitely been raised or ratcheted up. I think that's a factor in the score as well.

The final factor, the final thing that I think is happening that is kind of the elephant in the room that no one actually really wants to talk about and this has more to do with finance and economics and anything else, is that for most of the time that I've been in bar review business, actually all the time I've been in the business, there had been one or two very large companies. I call them big bucks bar review. They're the ones that prepare most of the students taking the exam. Now, when everything is going well for that group of people, when those bar takers are doing well, the big bucks is happy because they are the state pass rate and that's a perfectly acceptable score.

There's really very little incentive for that group to improve the quality of their teaching, to improve the quality of their materials, to improve anything that they're doing because whether they do well or they do poorly, they still get the same market share and it doesn't really change. Well, unfortunately, what's happening is that if you take those first three factors, a slightly less prepared group of bar students coming out for the exam, plus a number of foreign trained attorneys, you add a slightly more difficult test, you combine that with a slightly less engaged and forgiving bar grader, and then suddenly the old line approach of we're just going to stand and deliver a lot of information and push it out to you doesn't really get us very far.

The result of that is that those big bucks bar reviews are seeing their pass rates plummet. I mean, they're just absolutely falling through the floor. Because they're falling through the floor, what we're really recognizing right now is that that approach to teaching for the bar is not very effective. Now, we've known it's not very effective for 25 years. But, nobody was paying attention. We were just sort of whistling in the wind or out in the middle of forest by ourselves saying, "Hey, this doesn't work," but because there were so many people taking the other courses, they got the benefit of the pass rate no matter what it was.

Now, with these other factors occurring, they're seeing a much lower pass rate. Now I think the reality is if you're in the headquarters of that big bucks bar review one or two, this is not a happy day for you because you're really being forced to confront the fact that your course just doesn't work very well and it doesn't work well for first time takers. It absolutely doesn't work well for repeat bar takers. Does not work well for foreign trained attorneys, just doesn't work well. Now, the truth is coming out that it doesn't work well because of all these other factors.

I think the reality is that if you've been planning to take the traditional approach to studying for the bar, if you're a repeat bar taker, I'll just tell you right now, you're going over the falls without a canoe. You got very little chance of surviving the plunge. If you're a first time bar taker and you're taking the big course, you got a marginal chance. I mean, that's it, that's the best you got is a marginal chance. I don't think that that should be what your expectation should be. Just because everybody's doing it, well, most everybody's failing. That shouldn't be what you should expect. I think you need to expect more from a bar review. I think you should expect a bar review that actually knows how to teach, that understands the pedagogy, that understands the test.

They can give you the advantages of studying, using not just the technology that exist but the education approaches that we now know work more effectively than memorizing and reciting. If you want to know more about, check out celebrationbarreview.com or give me a call. I'd love to talk with you. I hope that this short Periscope is useful and that your results, well, I hope they were favorable, but if they weren't, I want you to know that there is a way to deal with it and there is a way to make sure that your next results are favorable. I look forward to being able to help you do that. I'm going to sign off. Thanks for coming alongside and watching this brief Periscope broadcast. Bye-bye.

Well, 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 the link in which you can request an invitation. We'll see you along the Extra Mile.

Speaker 1:

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