



## Episode 90: Getting Ready for the July 2017 Bar Exam (with Ariel Salzer)

Lee Burgess:

Welcome to the Law School Toolbox podcast. Today we're talking about getting ready for the July 2017 bar exam with our special guest, Ariel Salzer. Your Law School Toolbox hosts are Alison Monahan and Lee Burgess, that's me. We're here to demystify the law school and early legal career experience so you'll be the best law student and lawyer you can be. We're the co-creators of the Law School Toolbox, Bar Exam Toolbox and the Catapult Conference. Alison also runs The Girl's Guide to Law School. If you enjoy the show, [please leave a review on iTunes](#). And if you have any questions, don't hesitate to reach out to us. You can reach us via the [contact form on lawschooltoolbox.com](#) and we'd love to hear from you. And with that, let's get started.

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Welcome back. Today we're talking about looking forward to the July 2017 bar exam with special guest Ariel Salzer. Ariel is one of our [law school](#) and [bar exam tutors](#) with tons of experience helping people get ready for the bar exam, so we're very excited to have her on board today to talk about this topic. Now, get ready to listen to two people who have an unusual affinity for discussing the bar exam chat for a while. Every time we do these podcasts, Ariel, I think people must think we are so weird. Because we like the bar exam so much. Today we are talking about changes coming to the California Bar Exam, some tips for studying for the MBE, and studying early for the bar exam. Hey Ariel, can you believe it's already time to talk about bar season?

Ariel Salzer:

No. It feels like we just finished the February bar, frankly.

Lee Burgess:

I know. I know. It seems like every season it comes up faster and faster.

Ariel Salzer:

I know. I'm not sure why that is.

Lee Burgess:

I think it might be because I'm getting older but I'm not going to admit that.

Ariel Salzer:

Well, if you're getting older so am I.

Lee Burgess: Okay. Well at least we're in it together. Anyway, this year the July is exciting for a few different reasons, but let's start with the first one because there are big changes coming to the California Bar Exam.

Ariel Salzer: Definitely. Yes, people have had a lot of questions about this so I think it's a really right moment to be talking about this.

Lee Burgess: So, for the first time in ... well, I don't even know how long because it's been as long as I've known anything about the bar exam, changes are coming. This bar, the California Bar, is considered one of the most, if not the most, difficult in the country, and [now it is going to be two days instead of three](#). Day one is going to now consist of five one-hour essays and one 90-minute performance test. And then day two will be the MBE, the same day the rest of the country takes it. If you are considering taking the California Attorneys' Exam, you will just have to take the one essay day. So these are big changes because it used to be three days; there were two days of writing, there used to be six hours of performance test exams and now, there's just one 90-minute exam. And you don't have to do that horrible third day, which was really bad because people would get exhausted by day three. So I think this is going to be a really big change.

Ariel Salzer: Yes. I think your right. It is a big change on the one hand. On the other hand though, we do have some consistency to look forward to. At least with the subject matter and with some of the things that are going to be coming up on the essays.

Lee Burgess: That's very true. But the real question everybody wants to know, don't you think, is ... is it going to be easier?

Ariel Salzer: A couple students have raised that and they have said things like, "Well, should I just wait for July and skip February because it's only going to be two days?" Um, not so fast. I don't think it's really going to be easier. Less exhausting ... maybe, but it does look like, I don't want to say the bar is pretty high, I don't want to use that literally, but I do really think that it's still going to be tricky and it's still going to be just as tough.

Lee Burgess: Yes I agree. I think some of the big changes are you're going to have maybe less fatigue because I think a lot of people did find fatigue really played into that third day. But I think one of the things that people underestimate is the shift in the scoring with less points coming for the performance test. Personally, I always loved the fact that California had such a large portion of the exam being in the performance test because you didn't need to know any law to be successful in that part.

I think it helped attorneys who were coming from out of state because for them, almost half of their score was just for the performance test. But for everybody, you had the opportunity to really just show your writing skills and not have to rely on knowing the law to execute these essay questions. Now, it's really that the test is going to be about the subject matter so much more. You've got the MBE

questions and these five essays, that are going to test your knowledge of the law and then you just have this one 90-minute performance test. So I think for some people it might maybe air your dirty laundry of what you don't know a little bit more than it used to.

Ariel Salzer: I think you're right. On the other hand though, I think for people who maybe hate the performance test or maybe a little scared of it—I definitely didn't enjoy it—I think maybe this is kind of a blessing in disguise, especially if maybe you don't speak English as a first language or the idea of a three-hour packet times two, is just horribly, horribly ... if that's a huge obstacle for you I think this is maybe good news. So yes, maybe less of a cushion, but I think for some people it's actually nice.

Lee Burgess: And I think the other group that will maybe see a lot of benefit from this, is folks who use extended time for learning disabilities or other disabilities because that four and a half-hour performance test, to which most people took as time and a half, was brutal. I mean that's a really, really long time to work on one project like that.

Ariel Salzer: Sure. Absolutely. So maybe less fatigue but also maybe less of a cushion. Personally, I'm not sad to see the second performance test go. I think a lot of the times you can—and I know you've noticed this—but on some of the exams or if not most of them, there is one “normal” performance test and one “weird” or more difficult performance test. And so, I am curious to see which one we're going to get as the one 90-minute PT that we're going to see. I wouldn't be surprised if it was more along the lines of the more consistent and testable material type of performance test, not the super weird ones that have happened before.

Lee Burgess: Yes. Because the stranger the performance test the harder it is for them to grade.

Ariel Salzer: Well sure. Exactly. And that's come up with some questions students have had about the essays too like, "Hey, the exam's changing. Does that mean the essays are going to look super different this time around? Probably not. Because they're so much harder to grade when they are really different.

Lee Burgess: That's true. And they're going to have five instead of six, it's really the same material. They've said the scope of the material is going to be exactly the same. I think that the essays are going to feel pretty similar.

Ariel Salzer: Yes. I think you're right and I think you can prepare for them in a pretty standard type of way; the stuff we've talked about before on here, like using IRAC and using all the facts, planning your answers ... that kind of stuff is not going to change.

Lee Burgess: Right. Exactly. Time management within the three hours, things like that.

Ariel Salzer: Sure.

Lee Burgess: The other thing that I think is interesting for people to think about though, is the MBE is now going to have a lot more weight. It's now going to be half of your score. So again, for those taking the bar who don't like multiple-choice questions, this may not be great news because this score is going to mean a lot more. You really have to pass the MBE to pass the bar pretty much at this point.

Ariel Salzer: Yes. And on the other hand though, I do think that sometimes the MBE is maybe easier to study for. I'm not saying it's easier to actually take that part of the exam or do well on it, but sometimes it's easy to study for people because at least the right answer's there somewhere and it's not this kind of wild goose chase like the essays can be sometimes or at least how they can feel sometimes. So I do think, while it is going to be more of your score, it's a doable task to study for and do well on the MBEs. And frankly, really, you do need to know this law and the MBEs are a great way to show whether you do or not. So maybe it will make people take the MBE portion a little more seriously. I know we've talked before about how you can do a really [active review of your MBE answers](#) and I do think that's going to be even more crucial at this stage in the game.

Lee Burgess: Yes. If you are studying for this test maybe for a second time or if you've studied for it before and you've been allocating your time, I think you do want to take a moment and think about now this new point allocation as you allocate your study time. If the MBE is going to be half of your score, you better be spending a good chunk of your study time mastering the MBE, using tools like [AdaptiBar](#) and doing active learning. We're going to talk a little bit more about different ways to help mix it up in the MBE while you're studying in a bit on the podcast but you want to really take it seriously because you can't hide it.

I think no one in the country has really been able to hide from the MBE, but now in California, it's going to be much more at the forefront. And I think the MBE can be scary because if you didn't do well in the LSAT or if you just hate standardized testing or you hate multiple-choice tests, you might want to stick your head in the sand and not really think about it, but now you're going to have to take it seriously and the way you take it seriously is by targeted practice, tracking wrong answers, tracking the areas of law that you're struggling with, drilling heavily-tested topics. It's not rocket science how you study for this stuff but it's no fun. I hated studying for the MBE.

Ariel Salzer: It's definitely no fun. I actually, I didn't mind the MBE as much. I really hated the performance test. The MBEs, I thought, especially when you're doing them online, are kind of fun. I know the idea of what is fun versus not fun while you're studying for the bar is pretty skewed but in the broad scheme of things I didn't think the MBEs were that bad. But yes, I think the other really common mistake people make with the MBEs is just thinking that, "Someday it will all sink in, or maybe I'll learn by osmosis if I just do lots and lots of questions." But yes, I think it really does come back to that active learning and review portion, how to get really good at these.

Lee Burgess: Yes. All right. So if you're a repeat taker for the California Bar, I think you might be a little nervous because you're going to basically be taking a new test. So it's important to think about how you're going to study differently this time around. I just talked about maybe allocating your time differently because you need to make sure that you pass both the essays and the—wait, you need to pass all three but you really need to pass the MBE and the essays. And now that you don't have this cushion, if the performance test may have been a portion of the exam that helped to boost your score, I think you need to really sit down and think about being strategic and studying the heavily-tested law for the essays and the MBEs.

One of the things that we recommend checking out is the frequency analysis that's available for free on [smartbarprep.com](http://smartbarprep.com)—we'll link to it in the show notes—because it can really help you target your study. You have to remember, not every rule is tested every single time and the bar has some favorites because there are easier rules to test than others. And if you start doing a lot of questions you're going to start seeing this. I love when people ask me, "Well, professional responsibility ... what could they test?" I'm like, "Well, if you do a bunch of questions they almost always test Duty of Loyalty, Duty of Care, Conflicts of Interest, Written Waivers of Conflicts." They can only get so creative with these fact patterns. So by knowing what they've done over and over and over again, you can make sure that you know the heavily-tested stuff that has the highest likelihood of showing up at the test.

Ariel Salzer: Yes absolutely. And the same things goes for the people who are freaking out about The Rule Against Perpetuities or things that have literally never come up on these essays or at least not for the last, I don't know how many years. There is definitely a science to how to pick and choose what you are focusing on.

Lee Burgess: Exactly.

Ariel Salzer: And as far as repeat takers, who are used to that old performance test model, I think maybe another first step is, "Hey, don't practice the old performance test because we know those are not going to work anymore."

Lee Burgess: Yes stop. Exactly. The Bar has released one—thank you, Bar—[one 90-minute performance test](#) that you can take a look at, that's available on their website. We'll link to that in the show notes as well. But whether you're lucky, if you're getting ready to study for this next exam, whether you're a first-time taker or a repeat taker, is that the rest of the country has been taking 90-minute performance tests for a while because it's part of the UBE and the MPT, the Multi-state Performance Test is actually 90 minutes. So you can access those questions. If you just Google MPT questions you will find some online. Your bar review providers will probably be able to provide some. We're going to offer some as part of our [Writing of the Week course](#) that we will link to in the show notes as well.

But there is plenty of practice of this 90-minute format. Is it going to be exactly what you see on the California Exam? Ha, we don't know, because we only have this one example that the Bar has provided. But we know enough that it's going to be similar, that I think you can feel pretty confident using these MPT questions to study off of. So start practicing those. Start practicing this 90-minute format because your cadence of how you're going to read the packet and plan and put everything together, it's going to be different. There's a lot less material. Most of the time there are only going to be two cases, maybe, or no cases and just statutes. The packet is much smaller. You have much less material to shuffle around but you also only have about 45 minutes to write, so you have to get used to the time management of this 90-minute performance test.

Ariel Salzer: Yes, absolutely.

Lee Burgess: All right. But now what about for first-time takers? Should they be worried that this exam has never been given before in this format?

Ariel Salzer: I don't think they should be worried. In fact, they might be one of the lucky ones because they don't know any different and so it's not going to be a matter of adaptation for them, it's just going to be learning something new like everyone has to for the bar exam. They will have to sit through every boss they'll probably ever have, telling them about the good old days when they had to take the three-day exam.

Lee Burgess: True.

Ariel Salzer: So, that might not be very fun, but in terms of preparing them I really think it's actually nice to be taking this as the first time, your first thing exam. I think that would actually be a plus. On the same token, though, I do think the exam is still going to be sufficiently difficult. There is less room for error like we were talking about so I think the bottom-line still holds true for these first-time takers. Don't just go through the motions. Don't expect to learn by osmosis. It's not just going to click. You have to make it click. You have to work on this with a great level of active thinking and active practice.

Lee Burgess: Yes. I think some people are nervous that some things are going to get screwed up because this hasn't been given before and I have to say that there are plenty of things to worry about when it comes to the bar exam, that I wouldn't add to your list. I think the bar has been planning for this for a while. They have a plan in place. They aren't changing that many things when it really comes down to it. The only thing that's going to be different is the afternoon session of the first day is now going to have essays. There's still going to be a full writing day and a full MBE day.

The proctors just get to go home early because they don't have to do the third day. So I don't think that you need to worry that there's going to be some sort of chaos around the fact that the exam is different. I think they're going to be

prepared for it. I think the grading is already been decided, the way that they balance all their scores, the same graders are probably going to be reading the essays that were reading them before, everything is going to be calibrated. So on your list of things to worry about, do not worry that you're going to be the guinea pig and so you're going to fail because you took this exam for the first time.

Ariel Salzer: Yes absolutely. It's all going to be calibrated. This has been in the mix for years. The Cal Bar has been talking about this for years now so it's not like this is a sudden change.

Lee Burgess: Right. Exactly. So, there is something else interesting being chatted about in California around the bar exam. There are some people who are just claiming that the score to pass this exam is just too high. In fact, there was [an article that just came out recently in the San Francisco Chronicle discussing this](#). We've linked to it in the show notes, but it's pretty interesting stuff. I think it has ramifications nationwide and not just within California. But the article talks about that in the recent weeks a growing chorus of folks, legislators, law school deans, even court officials have started reaching out to the Supreme Court, who manages the Bar in California, saying that the lowest score needed to pass the exam, which they call a "cut score," is just too high.

So too many people are flunking and these folks who would be qualified to practice law in other states are not being able to practice law in California. And there's a lot of talk about low pass rates in California and ABA accredited schools around California, especially in recent years, is because even this last exam, the scores were at a 20—I'm sorry—at a 32-year low. 32-year low. So it was not a happy day for a lot of folks who got results. Now, these 20 law school deans have written to the Supreme Court to ask the Chief Justice to temporarily lower the scores while conducting an investigation to allow more people to get admitted.

They declined to do that. They've just instigated an investigation to see, oh I'm sorry, they've expedited an investigation to see if they should change the scoring. Just to give people a little bit of comparison, the minimum score to pass the bar has been the same since 1986, where 144 is the California cut-off score. New York's score is a 133. Among the first-time takers who took the bar this last time, only 62% passed compared to 83% in New York. New York used to be also considered, or I guess it may still be considered one of the hardest bars. Now New York administers the UBE.

So it's kind of an interesting conundrum. I'm not really sure what's going to happen, but I think it's an interesting dialogue of what the point of the bar exam is, whether or not it's really letting in the people that are the right people to practice law, who are ready to practice law but, I got to warn bar-takers out there, don't get sucked into this dialogue if you're getting ready to sit for this test, don't you think Ariel?

Ariel Salzer: Yes absolutely. It's beside the point as far as taking the test itself. Nothing in this investigation is going to make a difference for your bar experience. I did think it was interesting though, the investigation, I think they said something about how it's going to touch on whether the bar is actually a good indicator of something about your ability to practice law or something like that. And I thought that was actually kind of funny, because the bar exam is pretty much in no way like anything you'll ever encounter as a first-year associate.

Lee Burgess: Exactly.

Ariel Salzer: But I think they did raise some other interesting points, though, like, with the really low passage rates and the emphasis on bar passage in California, there has been maybe a shift towards really focusing on bar courses and bar prep courses, rather than things like clinics, which, I don't know about you, but in law school I thought that was one of the more valuable things that I did, is actually helping a real person in a real problem situation, which I never would have learned just sitting there in corporations or another bar prep course. So, I don't know, I thought that was interesting.

I thought it was interesting that they were talking about how maybe schools not wanting to be so risky with the students they admit might have repercussions on student bodies as far as students of color, non-traditional law students, low income students, ESL students, that kind of thing. And I thought that was interesting because really these are kind of precisely the people that we need in the legal profession to make the lawyer voice in our state more robust, more diverse. So I don't know, I do think there are repercussions that are probably pretty widespread but as far as bar-takers, don't worry about it. Don't even get involved. Definitely.

Lee Burgess: Yes. I think these are some bigger questions that the profession has to kind of struggle with. How do we make sure that we create some sort of a threshold so not necessarily anybody can just practice law, but we want to make sure that if you are probably pretty successful in law school that you should be able to move forward with your career. I haven't done a lot of reading on other licensing exams for medical doctors and their boards and things like that, if they have some of the same struggles or the stigmas on the schools are so directly tied to bar passage, but I think this idea of creating an environment where schools can't necessarily take chances on non-typical students because they're so worried about their bar pass rates, I think that that would really do a disservice to the greater community.

So we got to find a way that the students can be in law school just to be in law school, work on their skills to become a good lawyer, be able to take clinics and things like that. But then also be able to take this licensing exam. So, however all of that works together, we don't get to figure that out but I think we need to take a step back and make sure that all the goals are being met. And I know the law school deans are getting a ton of pressure for low bar pass rates and I know that they want that pressure lifted too.

Ariel Salzer: Well sure, and the students too. You don't want to dump out of an accredited school and have years of debt and no bar pass.

Lee Burgess: Yes. I mean, we see the statistics as they get published for the schools around California after every season and when higher ranked schools or schools who traditionally have very good passage rates take a nosedive, there is a sense of panic. There is panic by alumni, there is panic by the student body, both the student buddy who didn't pass but also the upcoming student body who are starting to freak out about their next exam. The administration's not really sure what's happening.

Some people criticize the schools for not teaching adequate skills, but there are a lot of different factors going on here, so I don't know. To me the idea of, "Well, let's just lower the bar pass rate and that will solve everything," I have to wonder if that's really a high-quality solution to this kind of complicated problem. I feel like that's an immediate band-aid of saying, "Well, the bar is just fine but we'll just go ahead and lower it so our pass rate can go back up and then no one has a problem." I don't know if that's the right answer. I don't know. What do you think?

Ariel Salzer: Well I mean, "Let's just lower our standards," doesn't ever really seem to be the right answer, but like you said it's a complicated problem and there are a lot of different factors at play. So, I'm just glad I'm not on these bodies that are making the decisions.

Lee Burgess: True, but I hope they do publish their findings from this investigation because I will be fascinated to know what the powers-that-be, that are making these decisions for our profession are deciding are the most important requirements to be able to practice law which, you have a lot of power as a lawyer, it is important that you have a minimum competency.

Ariel Salzer: Sure. Absolutely.

Lee Burgess: Alright. Well, enough about California. Let's move on to talking a little bit about the MBE. Not too long ago, the MBE cut its number of graded questions from 190 to 175. So the shift wasn't huge. I think for the exam-taker, I don't think you necessarily felt it when you sat down to take the exam but scoring-wise, it is interesting to think about because each question, which is a graded question, now has a bit more weight to it, which means you better get them right or you've lost a little of your cushion statistically. So I think that may, for some students, in the end, make it seem a little bit harder.

Ariel Salzer: Yes. I think that that could be true. I didn't notice a shift per se in the scores I was seeing or anything like that, but it is something to think about. The idea of there being less of a cushion, which, I don't know how much that's going to help people, maybe it just makes them more anxious to think that every question now weighs

more. But it kind of brings us back to the same idea about preparing well for these and not just passively going through and practicing them.

Lee Burgess:

Yes. As we already talked about, so many students get very frustrated by the MBE, and we like tools like AdaptiBar, but the practice is not enough. So one of the things that we as a team have been talking about, are different ways to try and mix it up with the MBE when you're struggling. And I was going back—I have this great bookshelf full of bar books; doesn't that sound exciting? Everybody is probably just so jealous of me right now, that I have this whole bookshelf of bar books. But I was going through them the other day when we were talking about getting ready to do this podcast and pulling off different books and talking about things with the MBE.

And one of the things that I didn't think that we'd necessarily talked about as much on the podcasts and on the blog is this idea about doing active reading of the questions. We talk about carefully reading the facts and looking for things, but actively reading. And so, I think it's an interesting distinction to think about what active and passive reading is. So passive reading is like highlighting every word. Law students love to do this. And bar-takers too. It's just like, "Well, if I highlight it, I will earn it." "If I highlight it, I am making detailed notes to myself in my brain." And the funny thing about bar questions is you literally highlight the entire question because every single word is important. So that is not active reading, it turns out. That is actually very passive. I'm a big fan of underlining. It turns out underlining is not so much better.

So one of the things that I want to talk about was of how you can be more active. And one of the suggestions that I came across yesterday was maybe starting to: one, take some notes in the margins so as you read very important things, writing your notes to yourself on the scratch paper in the margins or if you're doing the preps on the computer you can write notes to yourself on your scratch paper next to the computer. And starting to ask yourself about individual facts. I think that's the one—we talk about this with the facts patterns too—that makes a big difference. So for example, Ariel, if the plaintiff in the facts pattern is a doctor, do you think that's important?

Ariel Salzer:

Wow, that seems like a pretty tough question, but I'm going to go with "Yes." If this person's a doctor, I don't know, how could that matter? Do they have a higher standard of care? I don't know. What's going on in the question? Maybe I need more details.

Lee Burgess:

Right. But I think that's the thing. It's like as you're reading these facts, when they describe somebody as a doctor, then you should be like, "Whoa, if I'm actively reading this what does that mean? What does it mean when they're a doctor? What if I replaced the doctor with a mechanic? Is that different?" So in an example we often use around the MBE is the question of, "There's a medical doctor who is having dinner at a restaurant and somebody is choking at the table

next to him and he chooses not to go help, even though he knows how to do the Heimlich. Does he have liability under tort law for that?"

So a doctor, of course, there are specific rules about doctors. If he was a mechanic, does that change the question? Yes. So it's like, by starting to ask yourself, "If I were to change these facts, would they change the question? Why are they making it a doctor? Why do they use these words?" That is active learning. You're engaging with the question. You are actively reading it and you are thinking about that material. If you start to do this in these little mini facts patterns and even on your essays, I think you're going to start to see that the graders have used these facts to call things out for you.

Ariel Salzer: Sure. And I think it's important to think back to the idea that every fact is chosen so carefully by several people. This is not just one person writing a question. These are very vetted questions, just like with the essay fact patterns. So the idea of, "Why is this person a doctor?" Sure, that's important, and you might not get it as you do the question itself but if you don't, it's even extra important at that point to go back as you review the question and ask yourself, "Why was it not a mechanic? Why was it not some other person of some other profession? What is it in the fact that this person is a doctor that turns the question some particular way?"

Lee Burgess: I think that that's a really good point. The other words that you should always be looking for when you're trying to read very carefully are adjectives, because they will often times describe people. They are "young" or "old" or "experienced" or a "novice" or doing things in certain ways. Again, these adjectives aren't "extra." You're not going to be like a "novice" skier versus an "expert" skier. That's going to be legally significant. Why would they just toss in extra words without that being legally significant? I think the bar is hard enough. These questions are hard enough without having to make them overly complicated. Because the law is hard. And so if they're adding in extra words, there is usually a reason for them. So you should be asking yourself what the reasons are for those words.

Ariel Salzer: Sure, absolutely. And same thing with adverbs. This person did something "carefully." This person did something in a ... they were doing it "quickly" ... whatever the describing words are. And sometimes it can help I think with MBE fact patterns. Because there are so many of them and they're so different, it can help to imagine the scenario. Because it is going to be a really short little scenario. You might want to imagine how these events are playing out, and with those margin notes, you might not want to markup the entire margin right away. Maybe let the facts sink in a little bit and try to figure out what the gist of the question is. What is the area of law that you're in? Those kind of anchoring type of questions you can ask yourself before you start making a lot of notes. Maybe that can help too.

Lee Burgess: Yes. And I like the point you made about the adverbs. And again, change them. Because that could change the outcome. Yes so, "That's interesting that they

chose that word. If I flip that word to the opposite does it change the fact pattern?" If it does, then that's legally significant. And the legally significant facts typically drive you to the answer. The answer is usually about the legally significant facts.

Ariel Salzer: Sure. And so you can tell if a fact is legally significant if it really changes, once you change that fact. So if somebody is "careening down the road," is that different from "pedaling along?" I mean, they're really different facts so that can point you towards how important those facts are; if you change them and they really make a difference.

Lee Burgess: And when you truly geek out on this stuff—and we realize we have an abnormal affinity for questions, for exam questions—but you start to see the things that the examiners do. You do enough of these and you start to critically look at the questions. And you're like, "Oh, ha ha ha ... I see what you did there." At this point now when we review questions that's how we are able to do it. We look at it more like, "Oh, silly bar examiner, we see that you put that word in there. Let me tell you what that word's about." Because it's not an accident. And the more the questions you do, the more actively you work on the questions, the more you are going to become an expert at reading the facts and be able to make these judgment calls and see these patterns and see these clues. And that's going to drive you to the right answer.

Ariel Salzer: Yes, definitely. And just to reiterate, too, it doesn't have to happen the first time you see the question but in your review, it better happen. You have to figure out why these words are being used in the review of the question. I think that's really important.

Lee Burgess: Yes. And use them to find the law that you are struggling with. So let's go back to our doctor example. If you're listening to this and you're getting ready to study for the bar and you don't know what doctor's Duty of Care are and when they're out in public and not practicing medicine or when they are practicing medicine, then that's important. And if you are studying and you get the wrong answer because you didn't know that rule, it's important to notice the fact that it was a doctor that was the fact that it turned on but then it highlights for you, "That was a legally significant fact and I didn't know the law so I'm not able to answer this question adequately."

Ariel Salzer: Well sure. And with the MBE questions in particular, I think a lot of them really do test a nuance or an exception to a general rule. So if you go in to the MBEs thinking, "I know all the general rules, I'll probably be fine," you're probably going to score really low. So a lot of these things really are going to be nuances and maybe flip around the nuance, like, if you do know the doctor's Standard of Care but you're not sure what a normal person, good Samaritan, mechanic-type Standard of Care is when someone's choking, maybe go learn that, too. So kind of the flip side of it.

Lee Burgess: And it's a really, really good point. So this podcast is being released during the school year and if you are listening to this and it's not bar season and you are the next group of people to study for the bar, an activity like this of just getting some questions and practicing active reading, practicing reading the facts and keying off things, that is a great activity to do outside of regular bar prep.

Ariel Salzer: Not only is it thrilling and fun ...

Lee Burgess: Only for us.

Ariel Salzer: We obviously nerd out on this stuff, which is why it's good we do what we do, but you have things going on in your life. You have classes, you have finals, you have mid-terms. But if you did just five questions a week of MBEs or if you did one essay every other week, I mean you could start off your bar prep season with kind of an advantage. So, it's something to think about.

Lee Burgess: Yes. Which is funny, because the next thing I was going to talk about—look at that Segway—was actually studying part-time and [studying early](#) with the bar, because I think this is something we're seeing a lot more frequently. Both in California and all over the country, people want to start early because they're scared and the stakes are high, let's be honest. It's expensive to sit for the bar every time you have to take it and you want to start working. You may lose your job. Not to scare you, but of course the stakes are high. So if you are concerned about the bar, you can you start studying early and there are some really effective things that you can do. So Ariel, with your students, what have you seen as effective ways to start studying early?

Ariel Salzer: Yes. Good question. I think it makes a difference ... really I think it can help to start with what is your weakest area. So, if you're weaker on multiple-choice, you might want to start doing a few MBE questions every week. If you're weaker on the writing, that might be what to start with. So I would start with whatever you're worst at or whatever you've been traditionally more scared of, in terms of multiple-choice versus writing. The performance test, too, I think if you've never done one before and you have no idea what they are, that can be a nice place to start.

So, really it doesn't matter so much where you start, but I think a couple of activities that could be really useful include teaching yourself what the bar examiners are looking for in the essays. I think that can never happen too early and if it comes as sort of a surprise, a month or two of studying, that can sometimes be not enough time to really turn those kinds of strategies around and relearn that stuff; how to write for the bar exam. So I do think things like getting exposure to fact patterns and trying to figure out, "What are the legally significant facts? How do I use them?" That kind of stuff can't happen too early. And as far as MBE questions, if you're practicing a few here and there while you're still in school, don't worry about your scores that you're getting. It doesn't matter that you're failing every single question. What matters is you're learning how to do

the questions and you're learning the different strategies you can use and how the questions look and how they work.

So I think another thing that you could work on, too, is consolidating law or finding good materials that you want to use when you're studying. It does seem like sometimes students come to the table two months ahead of the exam and they have no idea what law they want to use, in terms of the outline sets; the ones from their classes, the ones from a commercial bar provider. They sort of just have a bunch of books at their disposal but they haven't tried condensing any of it. That part can actually take a while, so I think that is something that could be worked on early. I know we have some favorites in terms of the condensed outlines that we like to recommend to students, but maybe just getting a hold of some of those and starting to make sense of them can be a good early task as well.

Lee Burgess: I think that's a very good point. And you can always do a little substantive review and a little MBE work. You can even start with your favorite subject if you want. If you loved Crim, you can always say, "Okay, well I'm going to start reviewing a little Crim and doing some MBE questions just to get my feet wet and start getting comfortable with the format." I think that makes a lot of sense. And if you have the opportunity and your law school provides it, you should take the bar prep classes that can be taken for credits.

Many of our tutors have taught or are currently teaching these classes around the country but a lot of schools have some sort of bar prep class. It might just be the performance test, it might be an overall bar prep class. But you should go and you should pay attention and you should get what you can from this early work because if you feel competent about the performance test before you walk into your BarBri or [whatever commercial bar review course you decide to take](#), that is a huge boost. Ariel and I went to the same law school and our school had a class, it was called legal drafting, and before even walking into bar prep how many PTs did we do in that class? Like six or seven, I think?

Ariel Salzer: Oh my gosh. Yes, at least seven. And so, yes, if you've already failed and/or maybe passed seven PTs, you'll be in much better shape.

Lee Burgess: Right. Because seven PTs, even now that they're going to be 90 minutes, is still a lot of study time and that study time you can be doing something else. So take advantage of what is available for you. I think that you're going to really appreciate that. So, any other final tips, Ariel, for people who are thinking about getting ready for the summer exam?

Ariel Salzer: Well, just to reiterate, it's not going to click unless you make it click. Really you have to learn this stuff in an active way and keep asking yourself, "Why is it this way and not some other way?" The kind of stuff that we talked about, I really do think that's some of the most important review that you can do. And use every fact. Try to figure out why the facts you get are the ones that you got.

Lee Burgess: Yes. That's really, really good advice. And just as a reminder, of course, if you are looking for some bar prep help that is what we do at The Bar Exam Toolbox. We [tutor for the California Bar](#), we [tutor for the UBE](#), and we offer a [Writing of the Week course](#) for California and the UBE, that's an on-demand facilitative practice course. You can learn more about these offerings in the show notes, but hey, if you want Ariel to walk you through your bar prep, just give us a call.

Ariel Salzer: I'd be happy to have you. And I promise we're not this nerdy when we're tutoring.

Lee Burgess: That's true. And with that, we're out of time. If you enjoyed this episode of The Law School Toolbox podcast, please take a second to leave a review and rating [on iTunes](#). We'd really appreciate it. And be sure to subscribe so you don't miss anything.

Thanks again to [Esqyr](#) for sponsoring this podcast. You can learn more about them by listening to our recent podcast with their founder; we'll link to it in the show notes. To receive a "10% off" coupon for their bar exam study tools, go to [esqyr.com/barexamtoolbox](#). If you have any questions or comments please don't hesitate to reach out to Lee or Alison at [lee@lawschooltoolbox.com](mailto:lee@lawschooltoolbox.com) or [alison@lawschooltoolbox.com](mailto:alison@lawschooltoolbox.com) or, you can always contact us via our [website contact form at lawschooltoolbox.com](#). So thanks for listening, we'll talk soon and good luck thinking about the bar exam.

#### Resources:

- [Esqyr](#)
- [Esqyr 10% Off Coupon](#)
- [SmartBarPrep.com](#)
- [State Bar of California Notice re: Modification to Format and Grading of the California Bar Examination Effective with July 2017 Administration](#)
- ["California bar exam's passing score should be lowered, critics say."](#)
- [Sample 90-Minute Performance Test Instructions and File](#)
- [Podcast Episode 78: Advice for First-Time Bar Exam Takers](#)
- [Podcast Episode 52: Bar Exam Tips for Mastering the MBE](#)
- [Please Do Not Spend All of Your Time Studying the Law!](#)
- [Can Studying Early Help You Pass the Bar Exam?](#)
- [How to Become Great at Taking the Bar Exam with Deliberate Practice](#)
- [Why I Hired a Bar Exam Tutor](#)

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