Lee Burgess: Welcome back to the Law School Toolbox podcast. Today we are welcoming Dan Smith from Themis Bar Review to talk about the NextGen Bar Exam. 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, the Bar Exam Toolbox, and the career-related website CareerDicta. Alison also runs The Girl's Guide to Law School. If you enjoy the show, please leave a review or rating on your favorite listening app. 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 are excited to have Dan Smith, who is a project lead for NextGen development at Themis Bar Review. He's also the curriculum lead for the B2B programming. So basically, you know a whole lot about all the stuff that Themis is teaching everybody about the bar exam. Is that a good way to describe what you do?

Dan Smith: Yeah, I think that's fair. I know a ton about everything NextGen and everything law school related, leading up into bar prep.

Lee Burgess: Awesome. Well, thanks so much for taking time to chat with us today about this topic that's bringing a lot of anxiety for current law students, which is the incoming NextGen Bar Exam. So, at first we'll take a collective deep breath. It's going to be okay. We're all going to go through this journey together.

Dan Smith: Absolutely.

Lee Burgess: And there will be plenty of support for everyone. If folks really aren't that aware about what's going on with the NextGen, shall we get things kicked off by you sharing a little bit more about what are the key changes that the NextGen is bringing, and who needs to be worried about this?

Dan Smith: Yeah, I think that's a great place to start. So the NextGen exam, I think the first point to make is that it's going to be completely computer-based, which is something new. No more number two pencils, unfortunately, which we've come to know and love. It's going to be over a day and a half, versus what it currently is at two days, so it's a little bit shorter. Jurisdictions may include some sort of state-specific component on the second day in the afternoon portion, but that's kind of in flux right now. Jurisdictions haven't come out and clearly stated what they want to do there. So, that's something that's kind of in the mix. We're continuing to follow it as more information comes out, but students can take a look at their jurisdiction's website to see where they're headed there. So that's something a little bit different too. That's going to be alongside the actual NextGen exam.

Lee Burgess: And the first exam is coming out in July 2026 for just a handful of jurisdictions, and then it's like this long rollout over the next few years.

Dan Smith: Yeah. July 2026, I think there're about five or so right around there, not too many. 2027 is also on the lower side. And then 2028 in July is where everyone who is adopting it is picking it up then for sure.

Lee Burgess: Well, yeah, because they're going to not let them use the UBE anymore.

Dan Smith: Yeah, the other one going to be gone. So that is the deadline.

Lee Burgess: I love getting those press releases, like "Amazingly, all these other jurisdictions adopted it." I'm like, "Well, you did take away their other exams, so they didn't have a lot of options."

Dan Smith: Exactly, yeah. The MBE is gone and stuff, so yeah, there was not much of an option there.

Lee Burgess: No. And so, what are the specific challenges these NextGen changes present for Themis or anyone who's trying to prepare for this exam? Why is it a different test than the UBE?

Dan Smith: I think there're a couple things there. The NextGen exam is still going to retain what we have for standalone multiple-choice questions. Those are still going to be on the exam. They're still going to be important, a big part of the exam. There're going to be fewer than there were previously. There're going to be 40 per section, there're three sections. So, 120 versus the 200 we're used to. So that'll be a little bit nicer for people who don't love multiple-choice questions. The interesting thing on NextGen and something that's entirely new is integrated question sets – totally new question type for the bar exam in general. We've never had anything like it. What it is is kind of a common factual scenario that students will be exposed to, and then a series of questions that they'll have to answer related to that. Now, the common fact scenario could also include some sort of exhibit, like a statute, judicial opinion, maybe even a police report – something that students will work with and start to answer six questions, typically, in these question sets. So that's something entirely new and we are trying to work around. Basically as soon as the NCBE announced NextGen, and they put out a little bit of information...

Lee Burgess: Just a tiny bit.

Dan Smith: Right, right. As to what the questions would look like – we're like, "Hey, we have a general idea of this. Let's start drafting those." So we did. And then once we finally saw more from the NCBE, we realized we're on the right track here. We're doing what we expected them to do. So it's been really good there. But again, it's something entirely new and it's more practical skill-based. You're going to have a student or an examinee go through, figure out what's going on in the facts, look at the law that's there, mesh it together, and kind of follow the case a little bit farther than you would with just a multiple-choice question where it's, "Hey, what should the outcome be here?" And that's all you're at. This is like building blocks up and you get some resolution, you address different issues. It's an interesting way to put stuff together.

Lee Burgess: So, do students still have to memorize a whole bunch of law?

Dan Smith: Yeah.

Lee Burgess: Because in the beginning they made it sound like that wasn't going to have be part of it. But now it's not really quite what the reality is.

Dan Smith: Yeah, we thought there'd be a bigger push away from memorization. And actually in the most recent content scope outline, they added more stuff that needs to be memorized, which was a surprising move. But memorization is still going to be very important there, especially because a lot of the multiple-choice questions are going to test on those memorized topics. And the multiple-choice

questions are still 49% of the exam score. So, there's a lot there. Memorization isn't going away. But I think having the new question types like the integrated question sets and also performance tasks, which are similar to the MPT that we know, will allow students to move a bit away from that substantive recall and actually apply the skills that a newly licensed attorney would be expected to apply.

Lee Burgess: So, I know this is where it gets a little sticky, because I feel like the messaging around this really was, "No, you don't have to memorize any law. That's why we're changing the bar exam, because attorneys can look things up. We don't need to know all of this stuff." And then they're like, "Just kidding." And then it was going to be like, "Oh, there's not a lot of multiple choice." Oh well, it's still basically half of your grade.

Dan Smith: Yeah. Yeah, it was surprising what was advertised and then what we're actually seeing, and it's getting closer and closer to what we're used to a bit, especially with the multiple-choice questions. I think a lot of us, when we first saw NextGen coming out, the statements that were released, it's like, "Oh, there's going to be a lot fewer of those, so students won't have to fully rely on that recalled knowledge." But there's so much there, there's so much information covered, it makes it incredibly difficult to be able to retain everything. So yeah, that is staying,

Lee Burgess: Part of me wonders if they just couldn't get the curve without it.

Dan Smith: Could be.

Lee Burgess: Multiple-choice questions are a great way to get a curve. Ask any law professor that throws them into their exams, I think. Yeah, that's usually why they're in there. And a computer can score them. It doesn't require any human scoring, which is also nice for those who are grading tests.

Dan Smith: Yeah, I think that's a great point right there. The one thing to know too about the multiple-choice questions is they did slightly change the form of those. So, we're used to the four answer choice, one correct answer. That's what's been on the MBE forever. Now they've also moved to incorporating six answer choices with two correct answers. And these are kind of like your issue spotting questions, like, "Hey, what law is going to apply here? What law should you research at the outset to figure out what's going on?" So, those are how they're incorporating the topics that you won't have to memorize as deep as the other topics, I guess. So, it's more of like an issue spotting approach to questions, which I think from what we've seen, they're on the easy side, and I think they're

going to be something that's good for students who do have that trouble retaining everything at such a depth of knowledge.

Lee Burgess: So, a lot of students feel like there are already two right answers on the multiple-choice questions when they take them. So, I feel like this is going to be a bit of a mind game for a lot of students, to go from this idea that they're trying to find this one right answer to two of six are right, and to feel confident that you have one of the two. I feel like that's going to be tricky for students, especially students who get distracted, who may have ADHD. I feel like that could be a real challenge, because you're wrestling with many more answers that may sound – well, they may even be correct, and also sound correct.

Dan Smith: Yeah, absolutely. I can see that. Even when they first released their first set of questions online a couple of years ago at this point, we were looking at them and yeah, this topic might be more appropriate to research, but if you're a first-year, second-year attorney, you might need to look at these other things too. It's like you said, it's balancing what is the most correct or the most applicable with other answers that still could resonate with students and still have a good argument for being correct. Like I mentioned before, these questions tend to be on the easier side from what we've seen. So I think that's how they're trying to balance a little bit, have those answers be almost glaring for students to pick up. That's how it feels to us so far.

Lee Burgess: Yeah. Well, it'll be interesting when we get to see more of them and people actually sit for it, right? That's what's hard about a new test, is, we can only get so much of a sample dribbled out to us over the time.

Dan Smith: And that's been hard for us, trying to draft a ton of stuff so we can make sure we have everything available as possible for students. And we're just getting these bits and pieces as we go. Every time we see it, we're like, "Alright, let's thoroughly review it, make sure we're on track, make whatever changes we might need to make", stuff like that. So we're very attuned to what they're doing. But yeah, it's been not as much as we'd like to see at this point.

Lee Burgess: Yeah, I mean, they also led us to believe we were going to see more.

Dan Smith: Yeah. The initial thing they said was every July a good amount of questions were going to come out, and it's August, so we haven't seen any new ones yet.

Lee Burgess: No. So, the NextGen exam, I guess we're going to see, but their goal is that it emphasizes these practical lawyering skills over memorization. When you get your Themis package for the UBE or the California bar exam, a good chunk of that is just listening to lectures about law, right? Those exams have a lot of law

in them. So, what is going to change from the student experience when there is this memorization component, but it's not technically the same volume of law as I believe they were testing on the UBE? Or am I wrong? Which it's totally fine to tell me I'm wrong.

Dan Smith: No, there are fewer subjects that are going to be tested, which is nice. So they're going to test the traditional seven MBE subjects, along with Business Associations. The thing about the substantive base of knowledge and stuff like that is, it's very hard to totally, or reduce that significantly and still have students understand every aspect of the concepts that they'll need to do. So, we are going to continue having those substantive lectures included so students have a full understanding, they'll be able to spot issues, even if they don't need to recall the full extent of it. But in addition to that, we are going to focus heavily on skills workshops, skills lectures, everything geared toward the skills that the NCBE has included in the content scope outline. So they've included, I think it's 28 separate skills that'll be tested somewhere in the bar exam.

Lee Burgess: Somehow.

Dan Smith: Yeah, somewhere, somehow. They've said a bunch of times that we're going to see more variety of the questions and the skills as the years go on. The first couple of years, it's going to look a lot like the MBE and stuff like that. We are developing what we call skill snapshots, which kind of set out visually how you would approach a skill, examples of how that skill would actually be tested in a question, all in one document to give students building blocks for those skills as they encounter them in different questions on the exam. So, we've been working on those for every single skill that the NCBE has put in the content scope outline.

Lee Burgess: Yeah. It's going to be interesting to see how foreign-trained attorneys feel about this new test, because I think that when you have a UBE or even a California bar exam test that is so focused on, "You need to understand this amount of information and apply it to these very specific questions, and we can give you more questions than you ever want to practice" – I think it is going to be a challenge to say, "Now we have these kind of skills and you have to have these skills and this understanding of all of this law, much of which could be different than where you come from." I think it's going to be a unique challenge for those of us in bar prep to support students for this new exam that is going to be very different and kind of assume you have a lot of this knowledge from law school.

Dan Smith: Yeah, absolutely. And that's something we've been considering too, as we work through the question sets. Some students might just not know what the next step could be or what the next step should be. So, even providing that kind of

very basic, "Oh, you have to draft discovery. Here's what that might look like" – something like that to get them familiar with those very basic things that, aside from a trial prep or a practice class in law school, you're really not going to see. So, that's something that's been on the back of our minds too, as we're developing everything.

Lee Burgess: Yeah. So you mentioned that the test is going to be online, and your prep program is online. I'm reading a fascinating book on how we read. I know, I'm just the most entertaining dinner party conversation person, but I'm like, "Let me tell you about this book that I'm reading about literally how we read." But also how we read differently on technology and how technology has trained our brain to read differently. This is a whole another podcast. I won't dive into it yet, I haven't finished the book. But I do think that for some students, doing these exams on a computer, especially reading these questions can be a challenge. We saw that during COVID, we saw it with the dumpster fire that was the California bar in February 2026. So, how is Themis going to support their students to get ready for this online exam, which really does change the way that we interact with materials? Because they're going to need to read large chunks of information on the screen, which I think a lot of people prefer not to do.

Dan Smith: Yeah. Yeah, that's something brand new for most of us, I feel like. We've been working our technology to mirror what the NCBE has on there, so students are going to be practicing with what they're going to see throughout the course. And I think just repeated practice over and over again with that same functionality will help students gain a familiarity with it and hopefully feel more comfortable. But I know it's such a big change for students to have to do something entirely different than what they've been doing in law school. So, we'll have to see there.

Lee Burgess: Yeah, I was reading another book. I know, I'm just going to drop the facts, I've been reading a lot lately. It's another podcast. But they were talking about the four main things that cause stress and anxiety, and one of them around testing is this idea of novelty. And so, the best way to counteract novelty is through repeated practice. Make sure that you've seen it before, you've done it so many times that there's no novelty in the moment. And so I think for students who may have been taking essay exams on their computers, but probably not having the question on the computer, it's going to take a lot of concerted effort to engage with the material in the way that they're likely to see it, to reduce the novelty, because you don't want to say, "I'm going to print this stuff, so I don't have to read it on my computer when I'm prepping", because then in the moment it will feel novel and that's more likely to create more anxiety in the exam room.

Dan Smith: Yeah, exactly. We want what they're doing in our course all the time to reflect what they're going to be doing, with those types of restraints too, like, "Here's what you are going to have, here's what you're not going to have." You're not going to be able to see it or touch it for the most part, like have the actual documents with them. And again, this goes back to what we say all the time about repeated practice is just so important, and I think now it's even more important with learning functionality in addition to substance and how to apply it and everything like that.

Lee Burgess: So, is the prep period going to be the same? Are we feeling like we still need to prep for the same number of weeks? Is it still the same 40 plus hours of work a week? How can students think about their time management of studying for the bar when they're studying for something new?

Dan Smith: That's a great question. We anticipate it being a similar period of study. And I think the good thing there is that there's going to be additional practice. There'll be more practice there. So, the substance – yes, there are fewer subjects, fewer topics. The rule against perpetuity is gone – let's all be happy about that.

Lee Burgess: Oh, who learned that for the bar anyway? Come on. That was the section that you're like, "I'll just miss those questions."

Dan Smith: Yeah. Those one, one to two, mainly one.

Lee Burgess: Yeah, not worth it.

Dan Smith: But yeah, we're going to keep that kind of schedule going, that the elongated study period allows you to focus on the topics as much as you need. I don't think it's really beneficial to cut down that period. I think students still need that, and the extra practice, and having the extra time with all this stuff is probably very helpful for them. In addition to what you said already about the technology. So, combining that all together, it's a lot.

Lee Burgess: It's a lot, yeah. And will the multiple-choice practice be folded in? So I think most people listening to this podcast know that UWorld is the parent company of Themis and they have a very popular multiple-choice MBE prep program called UWorld. And so, will the multiple-choice practice for the NextGen, which I guess we just call the NextGen multiple choice, because it doesn't have its own cool name...

Dan Smith: Yeah, NextGen multiple-choice.

Lee Burgess: I guess maybe at some point we'll create an acronym for it or something. I don't know, that'll be a future podcast. We'll work on that. We'll brainstorm our acronyms. Is it all just going to be folded into Themis? Are there going to be separate offerings for different parts of the test?

Dan Smith: At this point, I think it's all going to be folded in, so it's going to be all under one thing to access all those questions. Basically, all the questions that are there already are NextGen with some modification. So, the NextGen questions aren't going to be wildly different from what we're already seeing. We're going to have those available to students through the QBank, which is the UWorld side, and to our bank too. So everything will be there for students to access, practice as much as they want with all the multiple-choice questions. But again, the one difference in multiple choice being the six answer choice ones, which are the new ones, which we'll definitely have there too.

Lee Burgess: Yeah. So, you just don't know what you're going to get. Is it six answers choices, is it four? It's just, it's exciting.

Dan Smith: Yeah. Yeah.

Lee Burgess: It's so new and different.

Dan Smith: Yeah, it seems like there're going to be not that many of the six answer choice ones with two correct answers, at least in the next couple of years. We'll probably see that change down the road as they develop more. But yeah, you can see some of those, you'll see a lot of the regular ones we're used to that look a lot like the ones we're used to going forward.

Lee Burgess: Which makes sense, because from what I know about generating these standardized tests, writing these questions and coming up with new types of questions and new questions is very difficult. And getting them validated. And so, it does make sense that they don't want to toss the work that they've been doing over all these years, which everyone pretty much thinks works. And they just saw what California did, which it's not easy to throw together a bar exam at the last minute.

Dan Smith: No, it's not. Yikes. Felt so bad for the students.

Lee Burgess: Even with AI, yeah. We have a great YouTube series on that. If anyone's curious what happened in California, it was embarrassing, as a licensed California lawyer who pays bar dues.

Dan Smith: Oh yeah.

Lee Burgess: Now we're back to the old test and we'll see how that goes. So, have you been testing these tools with students? Have you been getting feedback? How are you getting them ready to launch?

Dan Smith: Yeah, we've been testing, we've been pilot testing them. Basically, we did our first pilot testing over a year and a half ago with students who had just taken the bar exam. We've been using them as part of our bar prep programming at law schools. So our early bar prep stuff, we've been including them for students and professors. This semester is the first time we're actually offering NextGen early bar prep courses in law schools. So we'll get a lot of feedback from that, because we're going to get a lot of eyes on those now. But yeah, we've had a ton of eyes, we've had feedback. We focus mainly on the difficulty level, the timing, the content itself, how people felt working with that. And the feedback we've gotten has been really positive. That positive feedback plus what we've been seeing more from the NCBE and seeing that it's right in line with what they're doing has been really good for us. Question sets, I want to say, are the biggest endeavor we've taken for NextGen specifically, and we have an in-house content team that's been working on it for a couple of years at this point. So, it's nice to see that we've been doing exactly what will be expected of students on the bar exam as we draft these.

Lee Burgess: Great. So, for students who don't know what that in-school bar prep is, do you want to just share a little bit? Because you might have someone else listening to this who has no idea that Themis can go into your school and offer bar prep.

Dan Smith: Yeah. The EBP courses – early bar prep – they're typically in your third year that we'll have either a Themis professor teach the course or we'll provide materials for the professor to teach the course. But it basically gives you an extended start to bar review. So you're going to start seeing materials, seeing lectures, doing practice questions, everything like that while you're still in law school. So when you get to actual bar review after you graduate, there's more time for practice, because there's less substantive knowledge to cover there, which is really helpful. And then just in law school in general, we have law school essentials materials for 1Ls, which kind of help out with the courses you're taking, those core doctrinal courses. We've also started developing 1L Q sets, which are something that we're hoping schools will use as part of their doctrinal courses to start getting that kind of practical experience or the practical skills and thinking into law school at an early stage. Again, that'll be dependent on law school buy-in. It depends on the school. Some schools have been very interested in having students work with Q sets as early as 1L year. Some schools have not. So, it all depends on what's going on at the specific school. But yeah, we have resources available, basically all of law school.

Lee Burgess: So, we have heard from law students that they are very nervous to be the pilot group for this new bar exam, and I get that. Again, California didn't do a very good job of modeling how to roll out something new. I think the NCBE is taking it much more seriously. So, what would you say to someone who is going to take that first batch of July 2026 NextGen? How should they think about that, and should they feel like a guinea pig or should they feel pretty confident that there's still a road to licensure?

Dan Smith: I think they should feel pretty confident. I feel like everyone who's taking that is in the same boat, this is entirely new for us. What we've been doing as a prep company has been to make sure we're designing products that are exactly what students are going to see on the bar exam. So, I think they can rest assured that we are going to have the materials they need. They need to focus on the studying, practicing, everything like that. But don't worry about all the news, the changes, everything that's coming out from that NCBE. We're looking at that. We're making sure we're incorporating that so they can just focus on the actual studying. So, I know it's a new thing. I'm sure people are anxious about it, but they can rest assured that I think it's going to work out totally fine. Nerves are always going to be there with the bar exam.

Lee Burgess: Yeah, any bar exam is stressful, new or not.

Dan Smith: Right, exactly.

Lee Burgess: Yeah. I think I'd also encourage students to really push your law schools to make sure that they are sharing all the information about the test, and to be very thoughtful about which jurisdiction you sit for. There is still some ambiguity, and this is outside of what Themis has to do, about how the reciprocity's going to work with certain states, and if a state's still giving the UBE, will they give reciprocity for the NextGen? Or do you then have to go take a state-specific thing? And different states are also fumbling because it's something new and the rules are changing. So, this is one where I think students also need to not stress themselves out of it, but make sure you're informed, and push your law schools to help you stay informed. If you can't figure out the realities of some of these jurisdictions, I would go to your bar services or academic support, or whoever is in the role at your school. And every school has someone in this role. Even if they don't like to admit that they have a person in this role because they're a fancy Ivy League school, there is still someone in this role that you can go to and talk this through, because I do think what you don't want and what I worry that students will do is they'll be floundering at the last minute, trying to decide which jurisdiction to take. That's not going to help with the anxiety. It's better to just pick the jurisdiction that you're probably going to want to work in

and sit for that test, whatever that test is, and then give yourself plenty of time to study for it. I mean, that hasn't changed.

Dan Smith: Yeah, exactly. And like you said, with the score portability issues, they're up in the air right now. Some might accept scores, some might not. It's very much influx at this point too, and I think that's probably going to be the case in the next year, two years, even leading up to that big July 2028 date.

Lee Burgess: Yeah. So I think it does mean that you need to be a little bit thoughtful, especially if you're looking at the map and being like, "Where do I want to be?" If you don't have a job, pick the state you want to work in while this all shakes out.

Dan Smith: Definitely. And reaching out to someone at the school, someone in the ASP department, someone like that. We work with them often. They are excellent, excellent resources.

Lee Burgess: Oh, they're such nice people.

Dan Smith: Yeah. Excellent resources. So, I definitely encourage people to reach out with any questions like that, because there're so many good ones out there.

Lee Burgess: There are so many.

Dan Smith: It's really impressive when you work with them.

Lee Burgess: It absolutely is. Well, this has been so informative. Thank you so much for spending a bit of your morning talking to us about NextGen. If students are curious to learn more about Themis, and even the NextGen work, how do they find out more?

Dan Smith: They can definitely go to our website, ThemisBar.com, reach out to any state directors, who are often in your schools and stuff like that. If you have specific questions about NextGen, they can make sure they get you in contact with the right people to discuss any of those concerns or topics or what we're doing, anything like that.

Lee Burgess: Awesome. And if you are listening to this episode in the fall of 2025, make sure that you check out the promo code that Themis has for you, which is included in the show notes. Dan, thank you so much. I learned a lot.

Dan Smith: Thank you.

Lee Burgess: You guys have all been working very hard, and so thank you all for the work that you're doing to help prepare this next group of bar takers. It's all going to be okay, we're going to get through it together. All of us are going to get through it together.

Dan Smith: Yeah. Well, thank you so much for having me. Really appreciate it.

Lee Burgess: If you enjoyed this episode of the Law School Toolbox podcast, please take a second to leave a review and rating on your favorite listening app. We'd really appreciate it. And be sure to subscribe so you don't miss anything. If you have any questions or comments, please don't hesitate to reach out to myself or Alison at lee@lawschooltoolbox.com or alison@lawschooltoolbox.com. Or you can always contact us via our website contact form at LawSchoolToolBox.com. Thanks for listening, and we'll talk soon!

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