Episode 47: The Top Five Bar Exam Study Mistakes (Sponsored by Adaptibar)

Alison Monahan: Welcome to the Law School Toolbox podcast. Today we're discussing the top mistakes students consistently make in preparing for the bar exam with special guest Ariel Salzer. Ariel is one of our most experienced bar tutors so we're really excited to have her here today. Your Law School Toolbox host today is Alison Monahan and normally my co host Lee Burgess is with me as well.

Together 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. Lawschooltoolbox.com We're the co creators of the Law School Toolbox, Bar Exam Toolbox, the Catapult Conference, and the Trebuchet Legal Careers site, and I also run 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 always reach us via the contact form on LawSchoolToolbox.com, and we'd love to hear from you. With that, let's get started.

Lee Burgess: I want to take a moment to thank our podcast episode sponsor, Adaptibar. Adaptibar is the only program that combines 100 percent licensed MBE questions from previous exams with patented adaptive technology that adjusts to your strengths and weaknesses. Additionally, Adaptibar teaches you every aspect of your timing so you can perfect it and not have to worry about the clock on test day.

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Alison Monahan: Welcome back. Today we're discussing the top mistakes that students consistently make when they're preparing for the bar exam with special guest Ariel Salzer, who's one of our most experienced bar tutors.

I'm really excited to have her here today to give us a rundown of the biggest mistakes that she sees students making. So you can avoid them. So, let's jump right in, Ariel. In your experience, what is the single biggest thing that students do wrong when studying for the bar exam?

Ariel Salzer: I'm glad you asked. Well, plain and simple, I would say not practicing enough under exam conditions is probably the number one thing I see students doing wrong.

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Alison Monahan: So what does that mean, exam conditions? Like, do I have to go and get a bunch of my friends to sit in a room with me, or what?

Ariel Salzer: You know, you can if you want. I'm not going to stop you. But basically what I mean when I say exam conditions is timed closed book exams for the MBEs and the essays, and timed PT exams.

You know, and so this is the hardest work. This is the part that everybody hates the most when they're studying for the bar. Nobody wants to just sit down and spend an hour or three hours if you're talking about a PT.

Alison Monahan: That sounds horrible.

Ariel Salzer: It is horrible. Every-, like I said, everybody hates it. I hated it.

The PT was my least favorite part about studying for the bar. But it really is what you need to do. It really is the way to get the most bang for your buck in terms of study hours. And I would say that, you know, not practicing enough or figuring out some reason that you think maybe practice doesn't apply to you, or why you don't have enough time, all of these excuses, these are probably the number one thing that I see going on.

Alison Monahan: I hear, I mean, I've heard people saying all kinds of things, like, from either just like, I literally don't have the time, like I'm working with this insane schedule that some bar prep company gave me and it's already taking 20 hours a day, how can I possibly do this? Or, I mean, another big one seems to be. Well, I'll do the practice once I know a little bit more law, right?

Ariel Salzer: And we do hear that a lot, you know, it's it's really uncomfortable to try to write an essay when you don't know the law very well. And so, you know, I mentioned closed book exams before, but it's okay to start out open book before you know the law, you know, it's okay to take training wheels type of practice.

You know, and, when I'm saying, you know, do something that feels uncomfortable, that's what I tell Bar students all the time. Whatever it is that feels the most uncomfortable for you, that's probably where you need the work. So, if that means writing essays, and maybe you don't know the law, do an open book at first, and crash and burn if you need to.

And, you know, if your essays are horrible, that probably means you just have a really good opportunity to learn even more from that essay.

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Alison Monahan: Right. I mean, nobody's going to be perfect when they first start writing, right?

Ariel Salzer: Sure. Exactly. I mean, my, I remember in startling clarity, my, my first really, really awful practice essay for the bar.

And I actually turned it in to Lee. She was my bar tutor and she was, she was even like, you know, this is kind of terrible. You need to do it again. But yeah, and I remember it so well because I had to take it apart to in excruciating detail and do it again. And that's what helped me, you know, so that's where the, that's where the hard work really needs to happen.

Alison Monahan: Yeah, I think that's right. I think it's Anne Lamont who says you have to write like the shitty first draft in order to get to the rest of it. And I think it's the same thing with the bar. Like, of course, you're not going to, I mean, you're not going to be perfect the first time that you do one of these essays, but how are you ever going to get better at them if you basically refuse to do them, right?

Ariel Salzer: Right, exactly. And, you know, one of the big pieces of doing this practice work, I think, especially when it comes to the essays is outlining your essay on scratch paper. If, if you're listening to this and you only take one thing away from this podcast, outline your essays on scratch paper. I can't even tell you how much of a difference it makes.

Alison Monahan: Why do you think people need to do that? Like, I mean, isn't that sort of a waste of time?

Ariel Salzer: You know, that's what a lot of students think at first. And it does feel like it's spending time, right? Because you're not just jumping into typing right when the clock starts. You know, you're spending maybe 10 minutes, maybe 15, maybe even almost 20 minutes just taking notes on paper. And it can feel like it's a waste of time, but what that process really helps you do is figure out, okay, what are all the facts that I'm getting in this fact pattern? What kind of rules are those triggering for me in my head? And how do I match up those pieces together? So you're not just recreating the fact pattern or writing down rules.

That's not the point of the scratch paper outline. Really what you're doing is matching up the law and the facts in a way that helps you write the essay even faster once you get started. And, you know, like I said, I've, I've really seen students turn their writing around by committing to this process and doing it the same way every time when they practice.

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Alison Monahan: Well, that sounds great, but can I just do that and not bother actually writing it out if I'm pressed on time?

Ariel Salzer: That is a good question. You know, students say that a lot, too. You know, can I just outline the essay? And the answer is, well, if you're struggling with issue spotting, sure, go ahead and outline essays because that's really good issue spotting practice.

But, you know, if you're struggling with things like timing, or structure, or putting in enough headers, maybe even doing really good factual analysis, which is a huge place where people struggle, if those are the, if those are the difficult points for you, then just doing the outlining is not going to help with that.

Alison Monahan: Yeah, I think this goes back to what you were saying earlier about doing the stuff that makes you uncomfortable. You know, if, if you know that like, oh yeah, I'm pretty good at like doing these outlines you keep doing them, of course, but then it's like, well, what do you need to be doing instead? And the answer is probably writing.

I mean, you know, I think people who have a lot of time pressure, and let's face it, the bar is pretty time pressured for most people. But it seems to me, like, one of the best ways to improve your speed is just to get more comfortable with the writing, and the only way to do that is to practice, right?

Ariel Salzer: Absolutely. And, you know, as you get later into the bar study time period, too, even practicing three back to back essays, you know, basically figuring out what is the exam going to give me in real life, and doing things that are as close to that as possible.

Alison Monahan: I think the fatigue issue for a lot of people ends up being something that they underestimate.

I mean, particularly in California where you've got three days of this. I mean, thank God that's ending soon. But right now you've still got three days of, you know, three hours back to back Monday, or not Monday, like morning and afternoon, you know, this gets really tiring. So it's, somebody might be okay if they're like, oh yeah, like, you know, It also, I think there's that element of surprise that sometimes happens when you have like multiple essays and you're not sure what they're going to be about. is one thing to sort of be like, okay, I'm going to write a torts essay today. And then you go to find a torts essay and you write it.

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It's another thing just to get this answer packet and be like, here you go.

Ariel Salzer: Right, exactly. And you know, that's one of the reasons that, especially in the later days of exam practice I always try to give students sort of what we call kind of, surprise essays where I send them a file with all of the details taken off of what kind of essay it is.

Alison Monahan: Mm-Hmm.

Ariel Salzer: And then if they print out a packet of those and use them as their sort of surprise practice essays, then they don't know when they flip over the paper that it's a con law essay or that it's a torts essay. They just have to write it.

Alison Monahan: That's sort of the first step is that moment of shock of like, what am I even supposed to be talking about here?

Ariel Salzer: Exactly. Exactly. And so that's just. There's one more way to do what the exam is going to do to you on those three days, those three exhausting days, you know, they're going to surprise you. So you should, you should surprise yourself. You should be practicing that. So yeah.

Alison Monahan: And I think another part of exam conditions is the distractibility factor.

So I've heard, you know, suggestions, which I think are really good, about go to a coffee shop and, you know, do three hours of exams back to back because that's kind of what the experience in that exam room with hundreds of people, like, typing away furiously is going to feel like.

Ariel Salzer: Yeah, you know, that's a great idea.

And, you know, I had a student at one point, I remember, she was trying to do PTs at the very beginning of the bar season in Starbucks. And, you know, if you're not used to something or you haven't quite mastered what the PT is and how to write one, you know, don't go to Starbucks yet, but if you're in the later days and you want to do some real realistic kind of practice, definitely go somewhere that's loud.

It's going to be loud in that room. Practice earplugs. You know, they feel really weird, so make sure you practice using them.

Alison Monahan: Yeah, exactly. I think the point is just, you know, anything that you can do to more closely replicate that experience is going to be good because , you know,

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just for your stress and anxiety levels, like having been through something similar before, you're not gonna freak out as much.

I mean, if the only time you've ever done any sort of bar prep work is alone in your quiet office, you know, with music playing in the background that you find soothing and you know, you're like coffee there and it's like, it's not like that.

Ariel Salzer: Yeah, you know, and I always, it's definitely not like that. And I always tell students you know, clear off your desk.

Make your, make your desk really bare. Only put your exam bag next to you. Don't have a water bottle, don't have a snack, don't have anything that they're not going to give you during the test. You know, don't get up and say, well, I'm a little tired. I'm going to go and run around the block or have a snack or whatever.

Alison Monahan: Right, or like, go out on the balcony and, you know, have a little sip of tea that I just made myself. Like, that's not helping you. All right, well, alright, so I think the point there is, like, you've got to practice under exam conditions, whether that means doing, you know, actually writing your practice essays, doing the outline the way that you're going to do it on test day, really replicating. And you're saying with MBEs, like you want to sit down and do them at random, not just do, you know, 20 of contracts and 20 of torts.

Like, that's not the way they're going to come at you. So you've got to be ready for this experience. All right. So what's next on the list? What is the, what's the second big thing that people really screw up in your opinion?

Ariel Salzer: All right. The second big thing I would say is, You know, thinking of minimum competency as meaning that the graders don't really care what you write as long as it kind of sounds coherent, that's really not the, that's not the bar that we're up against here.

You know, so, When we talk about the bar exam as a minimum competency test, obviously, you know and I know that that means, you know, do you have the basics down? Can you function well and practice law eventually in the future? Whether or not the bar exam is a good indicator of that is a totally different topic for a different podcast.

Alison Monahan: Right.

Ariel Salzer: You know, but, they're not trying to trick you, they're not trying to ask you every question in every single subject it's kind of just the basics. But, what that doesn't

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mean is that you can just write about anything that has to do with the general topic area. You know, these essays, especially and, you know, obviously the multiple choice questions, they need to be really precise, you know, the goal here isn't to figure out what can I get away with and kind of scrape by you know, go ahead and try that if you want, but it's a big risk to take.

So, you know, see what you can do to make your score the absolute highest possible and work with that.

Alison Monahan: And I would say, I think I would actually say almost the reverse is true. Like, I think, speaking from personal experience here, I think you can get away not knowing a lot of law if it looks like you should be a lawyer, so for me, for example, I will willingly admit I did not study sufficiently for the California bar because when I took it, I was working as a lawyer and I didn't have that much time and frankly, I was just like, well, you know, it doesn't really matter that much if I don't pass because I've already admitted somewhere else and like literally just didn't have the time to put in to really be comfortable with like every detail of the law.

I mean, Lee laughs because I didn't actually know that they tested professional responsibility on the bar exam. I mean, my logic was like, you've already done the MPRU. Why would they care about this? Obviously, if you're listening to this, very important topic area in California showed up on two different essays, but it goes to show you that, like, I literally didn't know that law.

I was making stuff up. But I made it look like, you know, it was logical. I sort of worked from the facts. I kind of guessed about what the law probably was. And that was enough to pass.

Ariel Salzer: Yeah. And you know, sometimes, and I've seen this with students too you know, sometimes when they don't know the law very well, they actually write better essays because they're really forced to use the facts that they get in front of them and they have nothing else to go off of.

You know, so using every single fact, that's another thing. If you can take away one thing from this podcast, use every single fact from the fact pattern.

Alison Monahan: Yeah, like, they probably put them there for a reason. And, you know, sometimes for me, like, I remember they were asking about, like, distinctions between federal law and California law.

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And so you're sitting there going, hmm, that's a really interesting question. If I were going to think of two ways that I could, you know, frame this law, like, for this issue, and it's obvious what the issue is, how would I frame it? And then I basically just, you know, said, assigned one to California and one to federal, and honestly, I don't think it really mattered that much if I was right.

Like, you know, they'd probably ding me for half a point if I, like, mixed them up. But yeah, I think actually, like, the stuff that I knew less well, in some cases, I actually did a better job on.

Ariel Salzer: Yeah, and, you know, I mean, I think, I can absolutely imagine that happening with you. You know, I could, I could see you going in and passing-

Alison Monahan: I'm not saying I recommend this as a strategy. I'm just saying that it turns out that you can actually, if you sound like you're a lawyer and you write in a logical, competent way, you know, where someone can follow your train of thought, you can actually do okay, whereas if you write just like, you might know the law, like you might know every detail of every, you know, extra like exception to this rule, to this rule, to this rule. But if you can't write it coherently, you're not gonna reach a level of minimum competency.

Ariel Salzer: Yeah, and you know what I think what I think it comes down to too and what I bet you did on your bar essays, is that you probably went with the topics that were given to you and you know realized that the graders have a list right they've got a list that they're looking for of you know, different rules, different sort of facts that you're going to use, and how you're going to piece things together.

It might not be a very precise list, it might not be an exact science, but you can't just be talking about a topic generally at length. You know, that's not what-

Alison Monahan: Oh, I definitely wasn't doing that just because I didn't have anything to say. You know, I was not discoursing on like the California law of professional responsibility because I was literally like, I have no idea what they're talking about.

I mean, frankly, I probably would have failed if I'd done just the essays too, but you know, luckily I was good at the MBE. So I think this leads into your next problem, next sort of problem area. So tell me about that.

Ariel Salzer: Yeah. Okay. So number three, you know, this is, this is really kind of taking the easy way out, I would say.

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So not fixing your own personal problem areas, whatever those are. And for everybody they're going to be different. But ideally, you know, you figure out what the issue is for you. Maybe you're really bad at writing essays. Maybe the PT is terrible and it always takes you four hours instead of three, whatever it is.

Figure out what it is and, and work on that one thing. And you know, if you're, if you have somebody giving you feedback or you know something about yourself that you need to fix, definitely focus on that. You know, don't, don't sweep it under the rug and think it's going to go away because it won't. You know, it kind of goes back to the making yourself uncomfortable idea.

Whatever scares you the most. That's what you should work on. And every essay, every PT, they should be teaching you something. So, I think a lot of students, they think kind of quantity over quality when it comes to practice. And they think, you know, how many MBEs do I need to get done to pass? Well, it's really not about that.

It's about how well did you do those MBEs and what did you learn from them? You know-

Alison Monahan: Right, I think that's a key point because I think Sometimes people just do like a lots and lots and lots of MBE questions because either they're assigned to do it or they think they need to do it, but the reality is like you probably are getting like some percentage of those questions right, like certain topics pretty much all the time.

And so it's basically a waste of time to keep practicing the stuff you're getting right. So, and one of the things I get myself credit for when I had like a very minimal amount of time to study was that on my MBE stuff, I used a program that like really focused on the stuff I did not get right. So, if you get questions over and over that you're not getting right, You're going to start getting them right eventually.

And it's just a much more efficient way to prepare than just to sit down and do like 30, or 50, or 100 of these things a day, right?

Ariel Salzer: Yeah, absolutely. I totally agree with that. And, you know, a lot of students I think are getting MBE questions right not really knowing why they get them right or maybe they're getting questions wrong and not understanding what that nuance was that they were being tested on, you know?

So figuring out, Why did I get this right? And why did I get this wrong? And how do I make sure I do it the right way next time? That's a big piece.

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Alison Monahan: Yeah. I think Yeah, and thinking strategically. I mean, you know, if you're thinking about the essays, and this goes back to doing the hard stuff, like, sure, it's tempting to just be like, oh, I'm sure there'll be a negligence question, so I'm just going to keep writing negligence questions.

But after you've done like two or three of those, I mean, you're not gaining that much at that point. Like you need to take a topic that you're really uncomfortable with and write an essay on that because you're paying for your buck is just going to be so much higher.

Ariel Salzer: Right, exactly. And you know, they've done it before in California, at least, where they tested solely defamation on the torts essay, you know,.

Alison Monahan: People are probably freaking out.

Ariel Salzer: Or people are kind of just pushing it aside and thinking, well, they're not gonna do that. And you know, it's important, like you were saying, to kind of figure out strategy wise, what to spend your time on, you know? So don't go and, don't go and practice tons of stuff that's pure minutiae, but defamation is a testable topic area. Like, you should know the ins and outs of it, just in case.

Alison Monahan: Yeah, and you know, there's certain, I know in California, there's like a tool you can use to see what they've tested on and stuff like that. So, you know, anything on that list is fair game, certainly.

I mean, anything not on the list is also fair game. But it's kind of this balance, because, of course, you've got to play your odds. It's like they're, you know, you probably want to be really familiar with, like, certain topics that come up a lot, but you also have to keep in mind, like, you know, you do have these other topics that are completely testable, are tested, and you can't just blow them off. So how do you suggest, like, say, you know, people are doing essays or doing performance tests, like, how should they be tracking what they need to work on?

Ariel Salzer: Good question. Well, I mean, I think it's easier, infinitely easier if somebody's telling you, hey, this is what you need to work on, which is kind of where we come in as tutors.

But if you're doing it, if you're doing it on your own I think you can really use the sample answers and the answers for the MBE questions, and, you know, by looking at whatever your Bar Book or the California Bar puts out as the answer,

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if you're comparing your work to that and in detail asking yourself What did they get that I didn't?

How did they explain something better than I did? You know, what are they using in the way of facts that I need to be using as well? And really picking apart your answer and if it's awful, rewriting it, you know, I think that's-

Alison Monahan: Yeah, I think that's, that's an underused technique. I think it's one thing to sort of write an essay, compare it and be like, well, you know, I basically got all that right.

Or, you know, okay, I missed a couple things, but it's not unless you really sit down and rewrite your answer that it kind of becomes, you know, second nature to write in a way that's what the bar is looking for.

Ariel Salzer: I could not agree more with that, and for some reason I think bar students have this way of, I don't know if it's because everything is so anxiety provoking and unclear, that they almost have this way of compensating with extra confidence, and so I hear students a lot saying things like, well, my essay was really good.

And it's sort of like, well, did you read it afterwards? Because it wasn't. It really wasn't.

Alison Monahan: Yeah, like, did you actually, like, look at, did you compare it? Did you check off, like, what you wrote versus what they wrote and see this blinding gap of, like, 70% of the stuff you should have talked about?

Ariel Salzer: Exactly. And so I think really careful review of your practice is almost as important, if not more important, than the practice itself.

Alison Monahan: Yeah, because it's easy to just kind of do it. And then be like, okay, I did it. Check that off the list. Moving on. And it's like, well, did you actually look at this? Did you get feedback on it?

Did you really examine, you know, cause the, I mean, the graders are not just going to be like, Oh, that's great. They completed the essay. Give them credit for it. Right?

Ariel Salzer: Sure. Exactly.

Alison Monahan: I mean, were that, were that the bar was graded that way, but sorry, you don't get too many points for just showing up.

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Ariel Salzer: Sure. Exactly. Exactly.

Alison Monahan: All right, well, let's move on to a slightly different topic. What's your fourth big mistake that you see a lot?

Ariel Salzer: All right. Well, the fourth thing on the list is not coming up with your own condensed outlines or attack plans, or somehow making the material your own and not just sitting there reading it off of your, your, you know, bar book or watching videos, I'll, I'll throw that out there as sort of a least favorite activity.

Great way to spend a lot of time and not really get much out of it. You know, so yeah, I think not figuring out a way to condense the material down. And when we talk about attack plans, I basically, I mean, you know this, I know this, but for everyone listening, they're basically blueprints for an essay, for example, and they can really save an essay if you forget the law, or if you don't know PR coming into the exam, or whatever it is.

You know, so-

Alison Monahan: And we're talking about, I mean these are the things you've got to memorize, too, right?

Ariel Salzer: Right, exactly. And so if you memorize the plan for an essay topic, you know, your, your step by step elements of negligence or adverse possession or whatever it is, if you figure out and kind of pull apart the law and figure out, you know, okay, well, in custody and interrogation, those are two small pieces that go under the bigger piece of the Fifth Amendment when you're talking about CrimPro. You know, you see kind of how things fit together and then memorize that.

If you get an essay on that topic and you don't necessarily remember all the rules, or even if you do, it will really help you organize the way that you write that essay. So I think that that, that is a really important thing that gets overlooked sometimes. People really want to just memorize whatever's in the book and not spend the extra time and effort to take it apart and make sure that all the little pieces make sense to them.

Alison Monahan: Right. I mean, it seems like, you know, I remember being just, you know, you get all these books and stuff and you're supposed to like do all this stuff and watch all these things. I mean, I'll admit I didn't watch a single video, but just because I know that, like, that's not a helpful way for me to prepare.

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It just seemed very inefficient. Like, I know that for me, I learned better by reading and then, you know, doing handwritten outlines and color coding and stuff like that, because I'm a very visual person. So I think part of it is just people knowing themselves and really trusting their ability to learn this material, which may or may not exactly correspond to the way that a commercial bar prep, you know, company, wants, thinks that you can learn it, right?

Ariel Salzer: Sure, definitely. And, you know, we see that with a lot of the commercial bar prep companies. They just give you so much to do. There's so much busy work that it's really hard to figure out what works for you, if you're trying to just complete everything on the list.

But yeah.

Alison Monahan: Yeah, I think there's this, there's like a temptation to just think like, Oh, if I just do what they tell me, like everything will be okay. But the reality is, you know, if you look at the pass rates of any given state, almost all those people who failed did some sort of commercial prep. So it's not enough just to sort of be like, Oh, I'll just like, I'm just a sheep being led along and I'll just do what they tell me and everything will be okay.

Like, you know, it's just, that's not really the takeaway message here.

Ariel Salzer: Yeah, exactly. And you know, there really are kind of one size fits all programs, like we always say. And. I think, yes, sure, it can work. It can work really well for some people, probably a lot of people, but if you feel like it's not working for you, I mean, definitely feel like you can tailor things to yourself.

Practice other things.

Alison Monahan: Yeah, I think, I mean, yeah, I think the reality is, like, any bar prep company is going to give you, like, more than enough material to pass the bar. Like, there's not, it's not a lack of information that is causing people to fail the bar exam here. You know, I think it is this lack of, like, really deeply knowing, even if you, even if it's only like you deeply know and understand 80% of the material and maybe a couple of details like you don't have.

But if you can apply, you know, that 80%, it's the 80 20 rule, like, if you can get 80% of the stuff on the bar right, you're gonna pass with flying colors. You don't have to worry about the rest of it so much.

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Ariel Salzer: Exactly. And, you know, it doesn't mean taking your whole entire bar book and turning it into flashcards.

You know, that's gonna not, that's not gonna let you deeply know anything. It's just gonna help you practice your handwriting. You know, so, definitely don't go and do things just because they sound like a good idea. Ask yourself, is this really gonna help me on the actual exam?

Alison Monahan: Well, and it's back to doing the stuff that's hard.

Like, it's easy on some level- I mean, it's not easy easy, but relatively it's easy to copy out a bunch of rules on flashcards and memorize them. But that's not really the point. They're, you're not asking, they're not asking you to recite a bunch of legal trivia. It's really about making these deeper connections, which is like what you're talking about with the attack plans is how are you going to approach, you know, an equal protection question.

That's different from just being able to say, like, the Fifth Amendment, blah, blah, blah, and like cite a rule. It's like, great. What are you going to do with that?

Ariel Salzer: Exactly. It's like, it's like the elements of adverse possession that I was talking about. You can know all of them. You can have them on a flashcard.

But if you don't know what open and notorious actually looks like when it's in a fact pattern, you know, your classic example, Alison, of, you know, a hunting cabin and somebody building a fire, you need to know that that means open and notorious possession of the land, or else it's really not going to help you when you get an essay.

Alison Monahan: Yeah, exactly. It's like, you have to be able to, you have to be able to apply this stuff. You have to kind of know what it looks like in reality. And so, you know, maybe if you're dead set on making yourself some flashcards. Because that helps you memorize stuff. Fine. But on that flashcard, you know, you wanna have enough information that it prompts you as you're looking at this flashcard to be like, oh yeah, this is what this means.

You can't just be like reciting words that you don't understand the meaning of, which I think can happen with these huge commercial outlines. Just be like, oh, I've memorized it. It's like, well, what does that mean? Which kind of leads into your final point, right?

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Ariel Salzer: Yeah, I was just going to say, if you want to flashcard something, flashcard your attack plan.

By all means, flashcard that all day long. But yeah, the final point, so number five on the list memorizing things in broad strokes rather than really precise detail. So, you know, one of the things that I always ask students when we're talking about memorization is, you know, how are you doing on your hearsay exceptions?

Because that's just one list of really, you know, a long list of stuff that you're gonna have to know..

Alison Monahan: And how many are there? Like, thirty or something?

Ariel Salzer: You know, it depends on how you, it depends on how you break them down, what you call them.

Alison Monahan: They're a lot.

Ariel Salzer: They're a lot. Exactly. And you know, it's one of those things where it's easy to think, oh yeah, when somebody talks about these, they make sense.

The words sound familiar.

Alison Monahan: Yeah, like I can kind of recognize it if someone's lecturing me on this.

Ariel Salzer: Right, exactly. But, you know. If I say, what are the hearsay exceptions, and you can't sit there and count on your fingers and rattle off every single one and then tell me what the California and federal distinctions are and what each one means, that's not knowing it well enough.

You know, so, again here, do you need to do this? Maybe you can get by without it, I don't know, but that's not really a risk that you want to take, especially if you're a retaker on this exam, which, you know, a lot of people are.

Alison Monahan: You should definitely do this.

Ariel Salzer: You definitely have to know things to that level of detail, and in that sort of immediacy.

You know, you need to know them off the top of your head. And that's how it should be for all the law. It should be really precise. And I think where, where some students get carried away is, you know, they're, they're either going to,

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you know, flashcard their entire bar essay book or whatever, or they're going to just kind of know the general topics and think, well, that's going to be good enough.

But, you know, again, they're not, the, the graders are not looking for a treatise on what you think the Fifth Amendment means. You know, it's not going to help you to know.

Alison Monahan: Right, I mean, Katherine Sullivan failed the bar and she wrote con law textbooks, so.

Ariel Salzer: Exactly. There's so much more to this exam than just knowing the, the rules and knowing the law.

Alison Monahan: A lot of people do.

Ariel Salzer: But it is an important part and it does need to be done with precision and with accuracy.

Alison Monahan: You know, so. Yeah, I think that's kind of like the part that gets you through the door. If you don't even know, if you can't say what, if you can't recognize, like, okay, this is hearsay exception X, Y, and Z, you can't possibly write an essay on it, so you have to at least be able to know, like, what these things are. If you can't remember the elements of adverse possession, well, okay, you're going to be missing huge chunks of the points if you don't remember to talk about something.

Ariel Salzer: Right. Boil everything down to elements, if you possibly can.

I would say that's a good piece of advice, you know, take every rule, boil it down to elements, and if you can't rattle off those elements and explain what they mean to a, you know, Small kid or your grandmother or whatever, like somebody who doesn't know what the rules mean then you probably don't know them well enough.

Alison Monahan: Yeah, and I think that's, you know, and again, this all goes back to practice, like how do you find out if you don't actually know what the rules are? You sit down and try to write an essay on a topic and it will rapidly become apparent that you don't actually remember them.

Ariel Salzer: Right, and then if you read your essay and you think, wow, I'm pretty good at this, look at the samples because maybe you're not.

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You know, maybe you didn't quite get it, or maybe you think you're better than you are, so definitely make sure you're actually reviewing stuff in detail after the fact, for sure.

Alison Monahan: Yeah, and I think, you know, sometimes people are like, oh, I'll just send it off to the bar, like, grader for my prep company, and they'll tell me if I'm missing something, but you know, those people are spending a few minutes on your essay.

Like, you're the one who has to really take responsibility for saying, okay, I consistently miss this issue on this topic or, you know, my essay is a total mess. I didn't organize it correctly. But I mean, the good thing is you have these sample answers, definitely in California, not so much in the UBE states where their sample answers aren't really answers.

They're more like treatises. But you know, don't, don't flip out if you see those, but, you know, hopefully you've got some sort of model. You know, I know someone who passed a New York bar after multiple attempts by literally just studying off of the sample answers. Because that tells you what they're looking for.

All right, well, we're almost out of time. But before we wrap up, let me ask you one other thing. If somebody's really struggling with bar prep, like you're in the middle of a course and you're realizing like you're not, it doesn't feel like it's going well. Or if you unfortunately have already failed and you're trying to study again, what should they do? Like, can they just hope for the best, or is there still time to turn things around?

Ariel Salzer: Yeah, well, I mean, you can definitely always hope for the best, sure. But if you really want the best to actually work out and happen, you know, you have to, you have to figure out, first of all, what is the problem?

You know, what is the reason that you didn't fail- that you didn't pass the exam? Or what is the reason that you feel uncomfortable with the bar prep company, you know, checklists that you're working from, or whatever it is. What's, what's the problem? And then, you know, see what you can do about fixing that, and see if you can get guidance.

If there's somebody that can read your essay, you know, maybe somebody who's already passed the bar, or maybe an old professor, or a tutor, or somebody who can tell you, hey, this is really bad writing. You're not using any of the facts. And you know, can they turn it around? Definitely. I mean, we've had students come

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to us, you know, a month halfway through the bar prep period and say, you know, whatever I was doing before just isn't working or I keep procrastinating and watching Netflix. Please help me.

Alison Monahan: Yeah, that's a huge one is like the motivation to study. It can definitely be an issue.

Ariel Salzer: And it's so, it's so crazy because this exam can mean so much, you know, whether, whether you pass or fail, it can have such a huge impact on, on a person's future. But I think all the anxiety and all the stress and everything put together, it almost paralyzes some people, you know, it can make-

Alison Monahan: Yeah. I mean, I don't think thinking about like, oh, this is going to control my entire future is going to help you pass the bar. You know, like you kind of have to find a way to sort of put that aside. Because if you are spending time thinking about that, you are not spending time productively studying, and that is what is going to make you pass the bar. Not like really wanting to pass or worrying about failing.

Ariel Salzer: Yeah. And you know, people, students say this to me all the time. They say, I want this so bad. I want this so much. I've worked so hard, but that's not enough. You have to do the heavy lifting-

Alison Monahan: Well, and it's actually counterproductive.

Like, I've read studies on this. Like, the more you want something like that, the less likely you are to get it. Because that's the thought that's taking over your brain, not, like, the actual preparation.

Ariel Salzer: Yeah, and, you know, not surprisingly, these same students are the ones that are really beating themselves up when they do something wrong and, and shying away from really analyzing their own work because they just feel bad when they do an essay badly.

You know, everybody feels bad when they write a bad essay.

Alison Monahan: Yeah, I think, like, you know, one of the things people can sort of take away from this, I think, is, you know, it's almost like a mindfulness sort of thing. Like, developing sort of curiosity about this process more than sort of judgment. You know, we can all be like, oh, like, I can't believe I missed that, like, I'm terrible at this. I'm always going to fail the bar. Like, I'm never going to pass. That's not

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helpful, you know, so like, to the extent you can sort of consciously like retrain your thoughts on this, you'd be like, wow, you know, I got a lot of stuff right in this essay, but there are some things I need to work on.

Here's my technique for ensuring that the next time I do this, I'm going to get those too. You know, that's just a more productive way of thinking about it that I think leads to less stress and anxiety. Like it's not easy. But it's a practical technique that people can use to really reframe this as like, okay, I'm curious about this process.

Like, you know, this is a learning process rather than like, I have to pass. I have to pass. I have to pass.

Ariel Salzer: Exactly. Exactly. Or, you know, and I tell students this, sometimes think about the essay as your last, Final shot right before the exam, where for some, for some unknown reason, you got the fact pattern that was gonna be on the test the next day.

How would you take it apart the night before and actually figure out what you're supposed to write now that you have the time? What would you do with that?

Alison Monahan: Mm-Hmm.

Ariel Salzer: You know, how would you write the best essay possible? But yeah, I mean, it really does, it all comes down to mindset. It comes down to, you know, being more positive, looking at every essay as an opportunity to do better, not, not just sort of this practice that you crank out.

Alison Monahan: Right, or not as an opportunity for failure. If you're actually like sitting on the test and you, oh my god, I hate con law. I can't believe I got a Con Law essay. And then you spend five minutes like freaking out about the fact that you got a Con Law essay instead of actually like calming down and like, okay, what's my attack plan for equal protection?

Let me maybe jot that down in the margin. Okay, now I can read the facts. I mean, you know, this is, it gets pretty, I don't want to say it's not rocket science because it's definitely hard, but it's also not impossible.

Ariel Salzer: It's not impossible. And I think equipping yourself with the kind of strategies that we were talking about, like scratch paper outlining, like using every single fact, like having really good attack plans, that's only going to help you if you, if you get an essay that you're stuck on.

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Alison Monahan: Well, and practicing too, like, you know, giving yourself that really hard essay on a topic you don't want to do, you know, and how are you going to deal with it? How are you going to deal with an essay where like you don't know the law yet? You know, I think, again, it goes back to number one, and that's why it's number one.

Practice, practice, practice! You know, practice every scenario.

Ariel Salzer: Yeah, and if you hate Con Law and you hate equal protection, guess what? Write more of it, because that's what's going to make you the most uncomfortable.

Alison Monahan: Yeah, exactly. Alright, well, Ariel, thank you so much. Unfortunately, we're running out of time.

But we really appreciate you taking the time to share some of your guidance. I hope this was helpful for people that are preparing for the Bar.

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