



Lee Burgess: Welcome to the Bar Exam Toolbox Podcast. Today we're talking with Sean Silverman, founder of Silverman Bar Prep. Your Bar Exam Toolbox hosts are Alison Monahan and Lee Burgess, that's me. We're here to demystify the bar exam experience so you can study effectively, stay sane and hopefully pass and move on with your life. 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 on your favorite listening app and check out our sister podcast The Law School Toolbox Podcast. If you have any questions don't hesitate to reach out to us. You can reach us via the [contact form](#) on [barexamtoolbox.com](#) and we'd love to hear from you. And with that, let's get started.

Welcome back. Today we are looking forward to our discussion with our guest Sean Silverman who tutors for the MBE, the Florida bar exam and the UBE. So thanks for joining us, Sean. We're really excited to have you on the podcast.

Sean Silverman: Thanks for having me.

Lee Burgess: I know you are geeky like I am and like to talk about things like the bar exam on a regular basis. There aren't that many of us out there.

Sean Silverman: Probably not that many of us out there.

Lee Burgess: Exactly. So Sean, can you share a little bit about your background and what led you to work in bar prep.

Sean Silverman: Sure. I teach quite a lot of tests. So I teach the S.A.T, I teach the A.C.T. to high school students, the GMAT, I could probably go basically naming just about all them. The GRE, the LSAT. I teach a lot of tests and the bar exam was just sort of included in that at one point. So it didn't even start with the bar exam. Pretty quickly out of law school I started getting into the test prep world, started tutoring all these tests and the bar exam was pretty natural for me having graduated law school. So I added it to that I'd say in the last five maybe six years it's really become the primary test that I teach. As I'm sure you're aware it could be quite demanding. So the other tests have sort of taken a backseat to it. I still do teach those other tests but quite a lot of my work these days is on the bar exam.

Lee Burgess: So it does make a little more sense that especially around the multiple choice is something that you kind of have a lot of passion for if you can have multiple choice passion, I think that probably is a thing because you have taught so many of these other tests that are all multiple choice.

Sean Silverman: Yeah. Obviously, I think the issue with multiple choice on a law exam is just a fact that, well, it's hard for me to say now because things have changed so much



since I graduated but there wasn't a whole lot of practice with multiple choice when I was in law school. Yes you're being tested on the same material but it's sort of a different world than writing essays. You're still applying the law, that's the one similarity, but it's just so much different. So it always struck me as a little strange there was no practice in law school for that. Things have changed.

I think go back even in the last three years perhaps things are starting to really change with the way that law schools prepare students for the bar exam. But when you're practicing for let's just say the S.A.T., it's just constant multiple choice because that's pretty much what the test is. So you're just consistently practicing that skill. Yeah, it's definitely common among all the different tests without a doubt.

Lee Burgess: Yeah. And I think we are also seeing with our law students that more and more law professors are working in multiple choice. We think they've been hesitant to do it only because they have to write those questions which can be really challenging to do.

Sean Silverman: Yes.

Lee Burgess: The other side is they're very easy to grade so that is a perk and they oftentimes will create a curve for the professor because students struggle more on multiple choice typically than they do on the essays. So I think professors are finding the benefits of doing it but it is still a challenge and I think one of the things I've noticed working with law students too is that oftentimes they find themselves turning towards bar materials for that practice multiple choice because there aren't that many supplements out there that are providing multiple choice practice on these core kind of 1L or 2L subjects which are the seven MBE subjects.

Sean Silverman: Exactly. I think it's a benefit for the professors but I still think that students are really, they struggle with it. And so, trying to figure out what makes the MBE so difficult, I wouldn't say that's the end of it but that's definitely part of it, what makes it so hard is just a format.

As the years go on, I think as law schools incorporate this more into the three years, we might see the score going up a bit because I think that that's just a part of it is that there's not enough preparation for the format of the test. We might think it's entirely based on not knowing the law but I think once you've done this, once you've been around this test for a while you see that there's something else going on because students they really prepare. Law students, pretty diligent people and they know the law. If you were to ask them to explain the parole evidence rule or something they'll be able to do that but they might not be able to apply it to a multiple choice question. I think that might help the scores.



Lee Burgess: I think that people really don't give these multiple choice questions on the MBE enough credit. I think they are tricky. We'll talk in a few minutes about more about what the, like, passing scores are but to pass the MBE you're still not knocking it out of the park. Most people aren't getting 95% of their MBE questions right. I am sure I did not when I sat for the multiple choice question. I think that they're hard and they're meant to be that way and even now when I tutor folks, if somebody sends me a question that they've been working on and it's a question I've never seen before, if I don't thoughtfully read it, carefully read it, I'll get it wrong and I do this for a living.

Sean Silverman: You're right. It's kind of interesting to me because I'll talk to students after the exam. I'll often times hear something like, well, I might have gotten them all right or I might have gotten them all wrong. It's interesting that the test is designed that way where most people are going to be able to eliminate two of them. Although the really difficult questions it might be hard so you can do that, but the test is designed I think in my opinion at least to have very difficult questions, fairly straightforward questions and something in the middle in order to get that curve they're looking for.

So, for the most part people are able to eliminate down to about two but I definitely hear that from some students. And I will say, it's somewhat of a good sign to hear that because for whatever reason, when you get it down to two and you leave the exam not knowing if you got any of them right, a lot of times you do get those questions right that you got down to two. You don't realize it at the time but you're seeing something about one of them that's better than the other.

Lee Burgess: Yeah. I find this, I don't know if you find this with your bar students who are sitting for Florida and the UBE as well. It's like oftentimes if somebody is taking the exam before they'll say I walked out first exam and I thought I did pretty well and then I was shocked to fail. And then they go sit for the exam again after working with a tutor and then they come out and they're like I think I did okay, it was really hard. I'm like, well, I think that's because you appreciated what the test was asking of you this time and because the test is hard. In the best of circumstances it's hard for basically everybody. If you see the level of difficulty, if you see a fact pattern and you see more issues than you have time to write about then you're probably understanding really what's in the question. If you're finishing all your questions early, unless you are a complete rockstar, you've probably missed the boat.

Sean Silverman: It's not the greatest sign to hear, oh, I found it easy. It's not the greatest sign to hear that. There's a little bit of luck involved as a bar exam in the sense that there's just so much information to learn that many people decide at some point they're only going to focus on certain parts. They're going to give up on certain things maybe Article 9 of the UCC or something. They're going to hope



for the best. And if they happen to get all those things that they targeted that could be, you could walk out of there pretty confident. From my experience, hearing that the test is really hard like you said is actually somewhat of a good sign.

Lee Burgess:

Well, we've heard a lot in the bar prep world, the people who read bar prep things over the last few years that MBE scores kind of have been taking a nosedive. I mean overall bar passage has been taking a nosedive. I know we talked about the fact that law schools are just starting to do more MBE prep kind of by encouraging professors to do multiple choice work. What do you think is the reasoning for these MBE scores taking this dip?

Sean Silverman:

It's a tough call. There's a lot of theories, right? I'm sure you've read about them, I've read about them. Some theories out there that because less people are applying to law school they're accepting people with lower LSAT scores and that's causing less people to pass the bar exam. But then there's the assumption that there's a correlation there between LSAT scores which happen before you even get to law school. Three years of learning the law and then you take the bar exam. I think first they should prove that assumption correct that there's some connection. We're talking about a pretty long distance and we're talking about the fact that the bar exam is testing on the things that you've learned after taking the LSAT.

So it would be interesting if there is a correlation but I don't think that's proven so I don't necessarily subscribe to that. I don't have the answer. I find it interesting though that in the last I think the administration, maybe two, the MBE scores have gone up a little bit. Pretty slight. They've gone up. See, that to me is easier to explain. I think that that has to do with the fact that law schools are sort of kicking up the bar prep.

I graduated quite a while ago but I don't remember even really hearing the word bar exam throughout my three years of law school. That's just not the case anymore. They have departments that are dedicated to this test and they just really prepare their students well or they at least, they attempt to do what they can to help the students and it looks like in the last test or two things are going up. I would attribute it to the bar prep in the law schools I think.

Lee Burgess:

Yeah. I think especially the law schools who are kind of those lower ranked schools where larger populations were failing. There are incredible risks including getting in trouble with the ABA or the state licensing, the state bars that also accredit schools. Schools are at risk of losing their accreditation. There are many motivators to remain competitive and even today and another school announced that it was closing in Georgia. I think there is a lot of pressure on the law schools which is good. One would think that the law schools would be motivated to get their students licensed because what good is a JD if you aren't



able to pass the bar exam. But, on the other hand I guess it doesn't really matter what the motivation is as long as people are getting prepared and better prepared for the exam.

Sean Silverman: If we try to figure out why it took so long I think that there is just this idea that law school wasn't the place for that. In some way we're taking away from the education of the students by preparing them for the bar exam. That was the thought. I think what you bring up is it could be selfish interest on the part of the law schools for the most part but they are definitely, they're definitely doing more now and I guess we have to see if the trend continues because there was an increase so that was promising. I think it was the last exam, I was reading something that, the mean score went up a little bit.

Lee Burgess: Yeah. If you're listening to this and you haven't sat for the bar yet so you're a 3L and you're thinking about the bar exam, if you don't understand the resources that your school is providing you should go find the people who are coordinating those resources because we work in private bar prep and of course we're always happy to have you come hire us but you paid a lot to go to law school so first you should use all of the resources that your schools are providing. So I have seen classes in your 3L year on bar prep, I've taught some of those classes. You can oftentimes get help with some essay reviews during bar prep season. Maybe there are academic counselors who will speak to you about your own individual needs around bar prep. If you have any sort of learning differences there might be additional resources for you provided by the school.

You need to take ownership and learn about what's available to you so you can access all of those resources at least for your first attempt. Now they might not all be there for you if you fail. And so, work the system. You paid a lot of money but I think the schools are still trying to figure out how to engage the student body around bar prep and so I think it behooves this individual student to go find the director of bar preparation services or academic support and start asking questions and figuring out who is able to guide you and make sure that you're on the right list so you get notifications about things.

Sean Silverman: Exactly. And on that note I would say, and again, it's not a definite thing that all people would agree with but perhaps consider taking the classes that are tested. I understand this idea behind there's absolutely more to law school than passing the bar exam. It's not a three year test prep. Just having been around this test for a while, I'll bring up Article 9 again just because it's a difficult subject for students. To me, the idea of having to first learn it, there's two difficulties with that. One, there's not a lot of time between the time you graduate and the Bar Exam. Secondly, you've got all these other subjects that you're going to be trying to learn at the same time you try to learn it.



So the idea of actually trying to learn a subject strikes me as really hard. I think you should be reviewing things you've already learned. Some states test a lot of subjects. I know California tests quite a bit. Florida tests a whole lot of subjects. So you might not be able to cover everything but I think our goal should be to put yourself in a position where you don't have to learn a whole lot of new things because that could be detrimental.

Lee Burgess: I think that's a really good point. I think one of the pieces of advice I was given in law school was maybe you can learn like a minor subject or two for bar prep. The core subjects need to be covered. And so in California they test community property and California wills and trust and corporations and remedies and all that stuff. They're like don't not take all of those. I didn't take remedies in law school but I took all the rest of the classes that remedies are based on so remedies weren't like a foreign concept to me. I was like, oh, I better, I took community property but I didn't take wills and trust but some of wills and trust is covered in community property because of how California law works.

So it's kind of like you know you still understood some of the death benefits. So when it came time to learn the test it was like well, at least I've seen some of this stuff before. Big core classes that are heavily tested I wouldn't necessarily recommend like you said, skipping it. Now that I know a lot more about the bar they almost always test community property or wills and trusts in California, so maybe you should take both of those.

Sean Silverman: Exactly. It's a good idea because not everybody is great at teaching themselves. To think that you'll be able to do that might be unrealistic. You might need a class in those subjects. Then it comes down to if you end up not doing that then you're just hoping it doesn't show up. You're sort of putting yourself in a risk zone, that's what I tell students. Like I said previously you might get lucky but I think you want to walk into that test minimizing risk I would think.

Lee Burgess: Yeah, I'm not a gambler myself either. So when people always ask me to make my predictions. I'm like well I'll tell you what's heavily tested and what you're likely to see but I don't gamble on things like the bar exam.

Sean Silverman: I don't make too many predictions either because I find that especially the NCBE, they are like almost designing this test to prevent people from predicting them. Every test has different subjects it's really hard to predict.

Lee Burgess: Yeah, yeah. We mentioned this earlier when we were talking but most people even if they pass the MBE in the room are going to kind of feel like they're failing because you're not doing particularly well compared to what most of us type A would feel like. I think this question comes up a lot. Like what is a good MBE score? Like what should people be reaching for? This also becomes complicated just so people know because they don't report out kind of raw



scores, they scale everything so you're getting these scaled scores and then California even scales it their own ways, nobody really knows what those scales are.

Sean Silverman: That's funny because I do work with quite a lot of California students just on the MBE. I'll hear, so I got a 1410, somebody will tell me and I'll have no idea what they're talking about. I know that there's not 1410 questions on the test, right? Seems it's just moving the decimal point to the left.

Lee Burgess: You're close enough, at least you can get a ball park.

Sean Silverman: 1410 becomes a 141 or something. The question is why. Why not just, right, so ...

Lee Burgess: We out here in California like to do things just a little bit differently.

Sean Silverman: Got it. A good score, now we have to deal with by the way this change with the numbers. In other words, rather than 190 it's now out of 175. I've been asked that question, I don't think, I don't know, what would you think about it, I'm curious. The math behind that doesn't strike me as all that important. I don't think it's going to affect because I think the curve will probably even that out. It's out of 175. In my view when I'm working with students and I don't know if this is a number that I just sort of, I don't think there's any necessarily data behind the fact that this is the perfect number to aim for but I think about 70% is a pretty good goal.

I'm hesitant sometimes to tell students that because if they're at like 67% a couple days before the test they'll start getting nervous that I said 70 months prior. I generally go at that and so what we're talking about is like 125 out of 175. Thinking about that, that's a pretty decent cushion to have. We're talking about 50 questions that you can essentially get wrong on the test. So, it's really tough for law students to kind of internalize that though. I can understand. I think we're very used to going into tests not thinking we can get 50 questions wrong and still actually do pretty well because it's going to scale up. The 125 is going to scale up. That's generally the numbers I give to students there.

Lee Burgess: My rule of thumb is close to the same, that 65 to 70 percent sweet spot. I also like to encourage my students if they're getting over 65 they're in the right zone. Keep digging, pushing to 70. I think it is kind of a challenge, I know for me personally who was someone who was always trying to get A's which is sit in a test and every time you take a practice test you're basically trying to get a C, percentage wise feels very odd and it's very disconcerting, it can be very demoralizing. It is very hard I think to make peace with that.



The overall thing about the bar exam is you're probably not going to get an A on the bar exam most of us. But, the MBE is really set up so most people are not going to get an A. We really don't want that. And you have to be comfortable with that and I think that's one of the reasons why doing those hundred question sets or those 200 question sets and getting used to what it feels like to take these questions is so important because you have to get comfortable with that.

I left my morning session of the MBE completely sure I hadn't gotten any of them right.

Sean Silverman: Right. And now you're teaching it.

Lee Burgess: Yeah, exactly.

Sean Silverman: I tell students to take advantage of that knowledge, of the fact that you have this 50 questions you can get wrong in the sense that you're going into the test knowing that. You have to be careful I suppose without like overdoing that idea and taking it too easy knowing that you have this sort of 50 questions you can get wrong. At the same time, you can use it, you look at a question, it's one of those property questions that somebody is subdividing the property into a thousand different lots or something and you don't want to deal with it. You could skip that one. Pick something of course or just skip it for the time being, just remember to go back to it and fill it in.

But the point is, to not understand that about the test I think puts you at a disadvantage. You should go into the test knowing that you don't have to deal with certain questions you don't want to deal with and I sometimes analogize to like somebody running a marathon or something. They might slow down at certain parts in the race because that'll actually help their time at the end. So, skipping a question may seem pretty bad at the moment. How can I skip this question, it's worth a point or whatever. But actually skipping it could benefit you. So if you know you can skip it and quite a few of them. Now you want to think about that 50 in terms of both sessions, right?

Lee Burgess: It's not like 50 out of a 100 in the morning and like 50 out of a 100 in the afternoon.

Sean Silverman: Or if you use all 50 just be prepared for a rough afternoon. Just use them wisely and certainly never, and this another thing I think about law students which I've noticed working with them is that you might get hung up on a question and not want to give up on it but you should never do that if you know you have these questions that you can essentially just forget about because if you spend too long on a question and you get it right, you're still missing some at the end because you're not going to get to those at the end.



Lee Burgess: And they're all worth the same points. You really do have to understand that yeah, if you don't finish the last five questions but you got that one question that you spent eight minutes on right that does nothing for your bar prep score, that just sends it down because you're just guessing the last five questions.

Sean Silverman: You'll be guessing at the end. You'll be guessing at the end and you just got that one right but let's say you get five wrong at the end that question cost you four points. So yeah.

Lee Burgess: So, if you're concerned about your score, let's say you've sat for the bar exam before or you've done some kind of early bar prep and you are listening to us talk about this and starting to sweat because 65 to 70 percent sounds unreasonable, what do you recommend as kind of the first thing people start to look at when they are saying oh, oh, the MBE is a problem for me? Is it usually like a problem with the law, a problem with issue spotting, a problem with testing in general. What are kind of your first things that people should start to evaluate?

Sean Silverman: Would these be like repeat takers? Would these people-

Lee Burgess: Yeah, let's say it's probably like a repeat taker or somebody who's been studying before and they did some, maybe did 100 questions set or 200 questions set and went oh, oh.

Sean Silverman: Right. Because I think with the repeat takers it's a little bit of different psychology there. It's pretty rough to wrap your head around the fact that you're about to embark on the same thing you did last time that didn't work out and the idea that it might not work out again. So you've got to find a way to sort of put it behind you and I think that gets harder as you might have worked with students who have taken the test quite a few more times than even like two. And yet, a lot of those a lot of those students will end up passing eventually.

You've got to first put the past like sort of out of your mind.

Lee Burgess: Grief. Go through your grief but you have to-

Sean Silverman: I'm sure there is a step by step process there like the one about death but it's similar to that.

Lee Burgess: Yeah, it is. It's a process. It really is.

Sean Silverman: Once you've done that, right, I think again because we're talking about repeat takers, I think the process is a little bit different as well. When you're first studying for the Bar Exam you do have to spend a lot of time learning the law. Now everybody's going to be different. If you don't feel you did that sufficiently



the first time then I think you're back to that again. I always ask students like do you think you knew the law well enough and yet you didn't pass. Now I don't know if people are able to make an assessment about that for themselves but I think that it's a little bit more about practice when you're a repeat taker. A little bit more about sort of getting good at the game.

There's only so many times you can sort of read the rule book. Sometimes when I'm first talking to a student I will just like analogize to say chess or something. How good would you really get at it if you were just open the box and just study the book, the book that comes with the box but you never played it. So, I really think for a lot of reasons that you should be doing a lot of practice questions when you're a repeat taker. You've got to start seeing the score going up and I think it's pretty boring actually to be pouring over contract law as well, over and over just staring at the outline over and over again.

So, a lot of practice and don't toss the outlines of course, you need them there. You get a question wrong, I think the outlines are a good place to go back, try to figure out what it is you didn't know, why did you get that question wrong. But, do a lot of practice questions and start thinking about the types of things you thought about when you were preparing for the LSAT let's say. I was never quite sure why people didn't treat the MBE similar to how they treated the SAT or the LSAT in terms of test taking skills, things like that. It was always just about stuffing as much law in your head as you could. I think as a repeat taker there should be a heavier focus on those kind of test taking strategies as well.

Lee Burgess:

I think that's true and I think one of the things I've seen about really pushing students to do a lot more practice questions and kind of learn from those questions is the MBE tests a lot of rules that are very nuanced, are very specific. And oftentimes if you're just studying an outline you're not tracking those rules and those differences. They're going to test prior bad acts but they're going to not just test the rule about prior bad acts, they're talking about the prosecution presents this evidence from this witness. It's all very about how these nuances of these laws are applied to these fact patterns.

That to me is where the magic happens. It's like, yeah, it's great to understand what prior bad acts are and most students are probably say sure, but then it's like, okay, well let me give this very specific fact pattern about it and then most of us are going to scratch our heads and be like I don't remember. And so it allows you to study these nuances that maybe you weren't studying when you're just drilling outline.

Sean Silverman:

Exactly. That's a pretty big difference right there between the multiple choice and the essays. I think when it comes down to the essays, it is great if you have an understanding of the law sort of, if somebody were to walk into your office and had questions for you and you could just explain it, like that's a pretty good



indication that you've prepared for the essays. Of course there is legal analysis that plays into the essays which I think maybe off topic but another sort of another skill that needs to be taught more in law school, analyzing legal issues.

When it comes to the MBE unlike the essays it's actually designed to trick you. I think that's kind of rough. No matter how well you know the law, the wrong answers are actually there to tempt you. Seeing something that looks good doesn't mean it's right and that's the difficulty of it. Some people have a problem with that because it sometimes maybe a little bit, it goes too far with the attempts to trick. You've got to start focusing on why things are wrong. That really gets into a lot of what I do with students which is we're focusing a lot more on why the wrong answers are wrong than why the right one is right.

So, what makes this one wrong, what makes that one wrong. If you get to the point where that's the way you're taking the test you're in pretty good shape. If like you're reading the facts, you're looking at the choices and you're actually, your first thought is not which one of these is right but is there anything wrong with choice A. Is there anything I can see that's wrong with it, cross it out. But you'll most likely get it down to two like you said before and then again, the key, try to figure out between those two something that's wrong with one of them and you'll be left with the right answer, which I think I've heard you talk about this previously is that the right answer is not always perfect and that's just the way the test is designed also is that so if you're looking for the perfect answer you're probably taking the test the wrong way.

Lee Burgess:

Yeah. I think that's really true. The other thing that I think students who practice can really start to see is the way that they craft these fact patterns. This is the same thing we say when studying the essays as well. So often a student will bring me a question and be like I don't understand why, they get it down to two and it's like, I don't understand why C was right over B. And I'll be like, well, C is about the facts and the fact pattern and B really isn't. Why did they even include these facts if they didn't want the answer to relate those facts. They don't just waste ink usually, there's like a reason for it.

I can honestly say when I was studying for the test I did not see multiple choice questions like that. But I think that one of the things when you have worked with these exams for a long time you do start to see. If you become a better reader of the facts and a better the kind of like student of the test, you can start to see things like that and be like, oh, that is weird that they said that there was that regulation. I bet that the answer that I need to pick is about the regulation. It seems to be a big important part of the question.

Sean Silverman:

Yeah, you might start to sort of see patterns and how they create wrong answers. There's only so many different things they can do to try to distract you. There's just a ton of information to learn on this test, right, and that's what



makes it so difficult. It's really hard to wrap your head around everything you need to know. And if you're just studying outlines it sort of that's your goal is to try to learn as much material as you can and that might just be impossible to learn everything that you're required to know for this test. But instead focus a little bit more on trying to understand the test itself. What makes answers wrong and so forth. And then you have to see your score going up.

I don't know, you probably worked with students where that's the most frustrating thing. You're putting in a ton of work and you're not seeing your score go up, I would change your approach at that point, I'd focus more on the test.

Lee Burgess:

Yeah. I think that that really links to the next thing I wanted to talk about which is time management issues, which I find even students who are diligently studying, if time management is not dealt with correctly that you can see either a plateau in those scores or their scores take another nosedive. I don't know if this is something that you've seen but even with students who don't get extended time, if somebody feels that they have like a short attention span, so they may not be someone who's been diagnosed with something like ADHD and gets extended time, but they find their minds wander especially because multiple choice can be boring. And so it can be very hard to focus.

We've really experimented with taking little mini breaks or like trying to do something every 10 questions to clear your head. But I found that students can really through poor time management of either trying to push through when they're kind of burned out and exhausted or like we said spending too much time on questions so you're missing questions at the end because you don't even have an opportunity to read them that can be one of the things that can really nosedive a score and leave people feeling really frustrated.

Sean Silverman:

Yeah. And these are like the variables outside of the law, right? To do well in the MBE. So time management, endurance, which I think a lot of people don't talk about or think about, it's interesting in a way. It's almost like you have to prepare for like an athletic event. And that break, that hour break they give you between the two sessions, it becomes pretty important. You want to use it wisely in the sense that you can really be burned out and you still have three hours left.

During the test itself and you're thinking about time management. I have to go back to that idea of you know about how long you have per question, right? I think that you can go overboard by trying to keep a running clock in your head for every question. If you're thinking about all these other things you don't want to also be thinking about that. But yeah, I think most people get a feel when maybe they're taking too long. You start to get a little nervous and you start to think maybe I should move on. In terms of time management you should.



It goes back to the idea that you've got a whole lot of questions that you know that you don't have to get right. That's why some of them I would say you can make the judgment call when you first look at it. I don't think you should do that too often but if you come to one of those excessively long fact patterns that you just don't want to deal with or if you see that and you already know you're a little short on time, that might be a good one to just skip over.

Other questions you might just, you'll start to feel, you've read it once, you've read it twice. You don't really see where they're going with it. That could be another good one to just skip. In terms of time management I think incorporating the idea that you've got a whole lot of questions that you can skip, those two things go together. You've got a little less than two minutes per question I believe so that's what you want to stick to.

Lee Burgess:

The other thing that I've had students do is I totally agree that people don't take enough at least of those three hours sets because endurance is a major issue. I don't think there's anything wrong with keeping a notepad for yourself next to your computer if you're doing this process online or the book if you're doing it in paper. And if you do you notice your mind starts to wander. If you do notice you're starting to yawn, if you do notice that you're struggling, just make a note where that is each time you do one of these practice sets because sometimes you start to see patterns. When you go back through the grading sometimes you can see, wow, I missed ten in a row after question 33 and then maybe the next time you're like, wow, I missed seven in a row around question 35. Well, maybe that's something to tell you that something's happening with how you are executing the test and that can make a huge difference.

Sean Silverman:

It can. And yet it's really tough to do too many full length tests when you're preparing. I don't have a lot of students who do a lot of them. I do think the day of the test, it's harder to do it when it doesn't count. So to sit down for six hours pretty much with an hour break and seven hours with the hour break and try to do a full length test, when you know it doesn't count, you've got the extra adrenaline the day the test, but it's probably a mistake for it to be the first time you're trying to do that the day of the test.

Again, I think that people should focus a little bit more on what they need to do during that break because some people will actually start looking over outlines and not resting their mind at all. I think some random constitutional law question they think they got wrong. So they'll go look at their constitutional law outline or maybe they'll study for the next session.

Lee Burgess:

I remember watching people do that outside of the testing room. It's so crazy to me.

Sean Silverman:

That second half is tough.



- Lee Burgess: It is.
- Sean Silverman: It's a really grueling exam and I think that the second half is probably harder than the first. Although it's downhill at that point so that's a good thing. But at the same time it's really like, if you're not fresh I'd say at the beginning of that second session it's going to be hard.
- Lee Burgess: Yeah, I went back to my room, my hotel room and ate lunch and watched Happy Feet on HBO. That's what was playing on HBO in my hotel room.
- Sean Silverman: Yeah, and then you go back and, you know, it's got to feel like the morning. You've got to be as aware and rested as you were when you were starting that first session.
- Lee Burgess: And fed, you don't want to get hungry. You need to make sure that you have enough going on in your body to get that done. So you tutor both the SAT and the LSAT and all these other tests. By the time people get to the bar we've learned a lot of like tricks, whether it be how you eliminate answer choices or things like that. Do you feel like a lot of these test taking tricks still work for the MBE or do people need to kind of start abandoning them and looking at this test differently?
- Sean Silverman: I think it does. I think they do work and I'd say there's a reason for them. On multiple choice tests you should be looking to try to figure out which ones are worse because those are the distractors. So I don't see any difference really between how that works let's say on the LSAT and how that works on the bar exam. You've got to continue to use the skills you've learned from multiple choice exams on the MBE and just get rid of what you think is wrong.
- Lee Burgess: Yeah. I think the only thing that I have seen people struggle with is if they try and work backwards from those answer choices too much which I know is something that like especially back in SAT you would often in your math questions and you could can kind of like write backwards. I think some of those answer choices are so distracting that you can send, you know like, oh, the question is about this or it's like instead of letting the fact pattern drive what the question is about. That's the only one that I've kind of encouraged people to like not do is, study the fact pattern first and then you can use your kind of tricks to eliminate answer choices. The really good distractors are really distracting.
- Sean Silverman: I think that that applies to a lot of tests. Once you start going down the road of trying to outsmart the tests by well, let me try to read the answers first and maybe find in the facts something that makes the answer right, it could become tough but I think that's the case with even the SAT. Let's say somebody is doing like the critical reading on the SAT. They might want to try to like read the



question and then go find the answer as opposed to reading the passage first and then answering the questions.

So there are different tricks and so forth but I think at the end of the day you want to get to the point where you can do the question in the order that it's presented. I do think, and again, I think that maybe different people feel differently about this but I like reading a call of the question first, not the answer choices. But just getting a feel for what issues being tested. I stress this pretty heavily especially when you're taking the MBE, you don't even know what subject you're in. It's not even a matter of not knowing what issue within a given subject is being tested. I don't like the idea of sort of jumping into the facts blind. And so, I'll read the question, I'll know what subject it is, then read the facts and then start eliminating. That's the approach I take. I think that there's probably reasonable different approaches than that but that's just the one I recommend.

Lee Burgess:

And hey, this is why you practice so you can test these approaches and find out what works for you because we're all different people. That's kind of the name of this game. You're a first time taker, you show up for the commercial bar course that you've signed up for and they tell you one thing and then you're like, well, I guess that's the way I have to do it and then your scores aren't going up and you're like oh, oh, what do I do. You have to own your own bar prep and start experimenting with other things. Either get outside help or take some of the things we've been talking about and saying okay, I'm going to try this, Oh, am I doing this, so you can try and like own your own experience because we're all different.

And there are people who are just great multiple choice takers and there are those of us who have to like study for it, and that's just, that's always how it's been. It's like you don't even need the same prep as the person sitting next to you necessarily.

Sean Silverman:

Right, and that could be a weakness in the system. When you're at a big bar company, when I was in law school I think they had like televisions where they would show the lectures on T.V.. At that point it's sort of just, everybody is just supposed to do what they say. There's got to be some variance there in terms of how people approach the test. It can't be the case that everybody should be approaching it exactly the same way. For some, I can understand. Pretty quickly students will tell me when reading the question doesn't work for them.

I'm certainly not going to say well, that's the way you should do it because it's not. It's the way I recommend for those who are kind of fine with it but you can read the question and now you might be thinking about the question and you can't focus on the facts because you're thinking about the question that you



know you're going to have to answer and that's a problem. So in that case I would say read the facts first.

Ultimately, I guess the one thing I'm pretty stern about is you really should be looking to get rid of what's wrong. All the other stuff I think there's a lot of flexibility there in how you approach it.

Lee Burgess: I like that. So, you have a [blog](#) which we'll link to in the show notes where you talk a lot about legal distinctions or these kind of nuanced rules or differences that are tested both in the MBE and the UBE and you've written some books on this too I believe. What do you think is important about focusing in on these legal distinctions because you think these are some of the things that students are missing when they're doing the substantive review?

Sean Silverman: Yeah. I think that that's the way to make a question tougher is to really hone in on some exception actually. So, if you just learn the general rule they're going to trip you up on the exceptions. When you're learning about the statute of frauds let's say, make sure you know when it doesn't apply. Because they're going to test you on that most likely. Now if it's one of the easier questions because like I said I do think the test is designed to get like the bell curve they're looking for. So, if it's one of the easier questions maybe it'll just be testing you on the fact, okay, this is the kind of contract that requires a writing. But if it's one of the more difficult ones that they've put in there and they test these, right? So that's how they know if a question's hard based on the 25 experimental questions that they gave some previous test.

If very few people got it right, they probably look at the people who scored really high and a very few of those people got that question right, it's probably deemed difficult and it's placed on some future test to be a tough question. That's going to be testing some very tough exception that a lot of people might not know.

So, I think it's sort of like peeling back an onion though when you're studying and you're not going to be able to get to that layer if you don't first understand the outer layer. That's what I think happens to a lot of students who end up repeating. They just didn't get to that sort of next layer in time but they eventually get there and so, those more difficult questions are testing maybe layer three, layer four. So you want to first go through the outlines and get a pretty good understanding of the basics and then make sure you understand some of the more trickier exceptions.

Lee Burgess: Yeah, that makes sense. Well, the bar space I think with technology is getting more and more full of different resources that of course we believe tutors are a great option. But there are a lot of other MBE resources, those online, those that are flashcards, various other things. I think one of the big differences



between MBE resources myself is whether you're starting from the real release questions from NCBE or you are studying off of questions that a test company has made up.

Do you have any thoughts on whether or not this is an important distinction?

Sean Silverman:

I do. I think it is. It's a question I get a lot. I don't know that there are enough released questions out there. You might advise students on this quite a lot yourself. If there were for example just to go back again to like other tests like the ACT for example, there's like 70 or 80 old tests out there that you could take to prepare for that test. But you're going to run through the questions fairly quickly. I think there's a lot more now than there were in the past but you're going to run through those pretty quickly so you might need to find some resources that go outside of the official questions I think.

They just released some new ones. They just released like maybe 100, 50 more so there are some more out there now. Then the other thing is sometimes I question did they release their best stuff. I'm not entirely sure how they go about choosing what they're going to release and so sometimes I think the non-release questions touch upon like these issues that show up on the exam that maybe they didn't want to release. Maybe a mix is the best way but I will say it would be a mistake not to do any official questions.

I think one of the things I noticed and this goes back for me quite a lot but it's sort of memory I have that the fact patterns weren't as long on the MBE as I would expect them to be based on material I had practiced with. When I was taking the first bar exam I took I don't think there were a whole lot of released questions out there. Certainly there weren't companies like AdaptiBar and so forth.

So, the fact patterns aren't that long. You'll come across those long property questions and so forth but sometimes I think the non-official questions actually the way they make them difficult is by making them long. Then you take the test and they're difficult for another reason. If you get good at answering long fact patterns that doesn't necessarily help you as much. So, a pretty good mix I think. I'd say those four tests that the NCBE has released on their website, those are pretty good ones to take. I think they're called like the OPE, the official test, those are good. And then Emanuel's book, Strategies and Tactics is an excellent book. Also some of the non-official I think.

Lee Burgess:

That's really good perspective. Well, although you and I can talk about this forever, I think we are out of time. But before we go, do you want to let people know where they can learn more about you, your work and even purchase some of your books?



Sean Silverman: Yes. I've got the blog where probably it's hard to believe, maybe I've been writing it for like close to a decade already.

Lee Burgess: The years just start to add up.

Sean Silverman: Exactly. So much of what I just think about the bar exam, there's less strategy on there actually than there is just substantive law based on the fact that I feel like the strategy is harder to kind of teach on a blog. There's a whole lot of substance on there and I'm actually, I sell my books now exclusively on there so that students can just download them, so they can also get the books on the blog.

Lee Burgess: Great. We'll link to all of those in the show notes so you guys can see more about what Sean does but I want to thank you for taking time out of your day to chat about this. I'm sure we'll have you back on the podcast for more riveting discussions about the MBE.

Sean Silverman: Sounds good.

Lee Burgess: I want to take a second to remind our listeners to check out our [blog](#) at [barexamtoolbox.com](#) which is full of helpful tips, even some posts from Sean to help you prepare and stay sane as you study for the bar exam. You can also find information on our website about our [courses](#), [tools](#), and [one-on-one tutoring](#) programs to support you as you study for the [UBE](#) or [California Bar Exam](#).

If you enjoyed this episode of the Bar Exam 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're still in law school you might like to check out our popular [Law School Toolbox Podcast](#) as well. If you have any questions or comments, please don't hesitate to reach out to myself or Alison at [lee@barexamtoolbox.com](mailto:lee@barexamtoolbox.com) or [alison@barexamtoolbox.com](mailto:alison@barexamtoolbox.com) or you can always contact us via our [website contact form](#) at [barexamtoolbox.com](#).

Thanks for listening. Good luck with the MBE practice and we'll talk soon.

#### **RESOURCES:**

- [Silverman Bar Exam Tutoring Blog](#)
- [Silverman Bar Preparation](#)
- [Bar Study Tips: Preparing for the MBE](#)
- [MBE Trouble? Tips for Studying Again](#)
- [Top 5 Study Tips for Conquering the MBE](#)
- [An Approach to Answering MBE Questions](#)



- [Tips for Florida Bar Exam Success](#)