



Lee Burgess: Welcome to the Bar Exam Toolbox podcast. Today, we're talking about the next steps you should take if you found out you failed the bar exam. Your Bar Exam Toolbox hosts are Alison Monahan and Lee Burgess, that's me. We are 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.

Alison Monahan: Welcome back to the Bar Exam Toolbox podcast. Today, we're talking about next steps if you failed the bar. Well, first off, sorry, this is probably not the experience most people were hoping for, and I think it's important to acknowledge that frustration about having to go through this again. So, if you've just found out you failed, we suggest taking a few days to kind of sit with this news, process your emotions around it, all that kind of stuff, bang into your pillow. Because without that, it's hard to move on in a really productive mindset, but you've got to realize this step can't go on forever. So, if you're going to prepare for and take the exam again, you've got to find a way to rationally evaluate what happened and make a plan for moving on and passing. So Lee, what do you suggest here?

Lee Burgess: Well, once you've moved past the grief, or at least you're processing the grief, you really have to get real, and you need to look at your [score report](#) and think about what it's telling you. And you also need to evaluate your preparation and think about what was effective and what wasn't. So, when we look at score reports – because when we talk to prospective students, they send us their score reports – one thing you want to look at is, did you bomb one part of the exam or is it kind of all across the board? And then within each part of the exam, are there certain topics you've consistently struggled with? Maybe it was a class you never took in law school that's heavily tested. Or today, I was looking at a score report with a student and it was very clear within their MBE scores that you could see that there were just a couple of subjects that were really pushing down the overall score. And so, that inconsistency always can show. Well, it's not that maybe the student can't do multiple choice questions; it's like, why are they not able to do Real Property multiple choice questions? That becomes the question.



Alison Monahan: Yeah, is there something going on in that topic? You know what? It's actually surprising. I've talked to people recently who didn't take Property, they didn't take Evidence. These classes are not necessarily required, and it can really put you in the situation where that might be what's bringing you down. And I think that score report is such a great piece of information, because sometimes we talk to people and they might not have the score report yet, and they're telling us one theory about what happened: "I've always been really bad at multiple choice, I'm sure that's what did it for me." "Okay, great. When you get your score report, send it over." And then you look at it and you're like, "Well, actually, that wasn't really the case." So I think you've just really, like you said earlier, got to get real here. What is it that actually caused you to fail? Because that's what you need to address if you're going to pass.

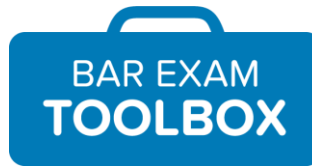
Lee Burgess: Yeah. Another thing that can even be interesting when you look at the writing portion is to compare the MPTs, or the PTs if you're in California, but the performance test portion with the essays. If you've got high performance test scores and mixed essay scores – some are high, some are low – that really shows me that it's not necessarily a stylistic writing issue, because you clearly can write in the examiners' required format for the performance test. If we are in the essays and some are high, some are low, and you tell me you didn't spend twice as much time on one question as another question, then it looks like maybe it's more subject-specific. So, even within the writing portion, you can start to parse out what might be going on given the requirements of each different section. And so like you said, maybe it's the questions you scored low on were subjects you didn't take in school and you were very overwhelmed by the question, or perhaps it was time management between multiple essays in the exam period. There are lots of different things that can be going on, but you really want to dig in and not only just look at the individual scores, but also how the scores compare based on what the different parts of the test are actually testing.

Alison Monahan: Yeah. I saw an interesting one today where someone had done pretty okay on the essays, kind of a mix of scores, but not too terrible, and then two ones on the MPT.

Lee Burgess: Ooh, that's brutal.

Alison Monahan: And I thought, "How interesting." I don't really have an explanation for that, do you?

Lee Burgess: Yeah, I wonder if that's like a fatigue issue, something to do with it being...



Alison Monahan: Right, just running out of time. I was just like, "Wow, that's an interesting one. I don't see that every day."

Lee Burgess: Yeah. So, in that case, you know it's not a knowledge of the law problem because the law's getting to you. But I would be curious to see if it was overwhelm by the packet, not having a plan to manage the packet, and then not adhering to following the directions, which seems like an easy thing on the performance test, but it not always is.

Alison Monahan: Yeah, I guess that 90 minutes, you've got to manage your time better if you start flailing and it's taking you too long to read the packet, you don't have time to get anything down. Yeah, it was just a very unusual report. I thought it was curious.

Lee Burgess: Yeah. It's also important to go back to law school and say, "Did I have some of these issues back in law school, or is this score report completely shocking?" Oftentimes, we ask folks how they did in law school and you'll hear, "Oh, I always struggled with multiple choice", "I always struggled with writing under timed conditions" or, "I struggled in my first year and not my later years." And so, a lot of times there's a little bit of foreshadowing from your law school career for issues that can show up on the bar. But it does happen that you did really well in law school, and then you don't perform well on the bar, and that usually means that you over-prepared, you got buried in the details, and you really weren't studying to just produce the answers that the bar examiners wanted.

Alison Monahan: Yeah. We work with people all the time who went to very top schools and they're like, "I've never failed anything in my life, I don't understand how this happened." And typically, they've signed up for a course, they kind of diligently worked through that course every single day that they were supposed to be working. They watched the videos and they did this and they did that, but ultimately, they weren't really kind of internalizing the information, they weren't really prepared to memorize things, they weren't necessarily used to a closed book exam. So, they did a lot of stuff, and it's not that people didn't work hard; it's just that maybe they didn't work smart in a way that was going to work for them.

Lee Burgess: Yeah. And really remember that this is a unique exam experience, and your job is to produce the results that the examiners are looking for. And that might be very different than what your professors are looking for in law school.

Alison Monahan: Oh, for sure.



- Lee Burgess: I think especially at these more theoretical, higher tiered schools, where they're more focused on theory and less focused on these traditional fact patterns. And so you may not have taken as many tests that were these kind of traditional issue spotters while you were in law school.
- Alison Monahan: Well, or multiple choice.
- Lee Burgess: True.
- Alison Monahan: I had almost no multiple choice questions in law school. I think the only test that I had that had any portion that was closed book was a half multiple choice exam in Evidence my last semester, and that was it. We didn't practice that. It would just sort of assumed that you'll pick this up for the bar.
- Lee Burgess: Yeah, "Good luck! Enjoy."
- Alison Monahan: Yeah, "Have fun!"
- Lee Burgess: Yeah. Another thing you have to ask yourself is, did you spend too much prep time doing passive activities? This could be watching videos, reading over outlines, not doing anything with the information. Or one of our recent favorites – just [re-copying answers](#) to try and study from them, which is its own thing, but that's not an active learning technique, by the way, re-copying things.
- Alison Monahan: Yeah. That seems to be getting popular these days, though. We hear this one a lot.
- Lee Burgess: Apparently, it's all over Reddit.
- Alison Monahan: Don't just copy. Yeah, exactly. Reddit is not giving you good advice here. Sure, if you've never seen a bar exam answer, maybe read them carefully, you could even write one out. I don't know, maybe it would help you. But that's it.
- Lee Burgess: Yeah. And I think it's very important when you get these answers that people are considering to re-write, that you remember what that model answer might be. It might be a real student answer that somebody wrote, it might not be 100% perfect, which is also important to remember. And you have to remember that maybe you can memorize what their rule statements were, if you really liked how they presented a rule statement, or you really liked how they did their formatting, so you want to adopt their formatting scheme. I do love a good formatting scheme. But in the end, you're going to get a different fact pattern.



You could memorize their answer and it's not going to give you the answer on the test day. I don't know.

Alison Monahan: Right. Yeah, you've got to use your own facts, you can't just write down the one that you copied over three times. Yeah, so I think any time you're doing something that doesn't seem that hard, I think is when you need to evaluate what you're doing if you're studying for the bar, because this should be a challenging preparation experience, that's just the reality. So, if you're kind of cruising through and you get to the end of the day and you're like, "Oh, that day was awesome. I checked off all these boxes, I'm not even tired. This is great." That's probably a red flag.

Lee Burgess: Oh, definitely a red flag, yeah.

Alison Monahan: If it's too easy, something's wrong.

Lee Burgess: Yeah. Everybody's favorite study, which you already know, that's always a good one too, when you're like, "Wow, I'm so validated by how much I know" – then you are probably studying the wrong stuff.

Alison Monahan: Yeah, "As a Civ Pro TA, I'm doing really well on this Civ Pro multiple choice." It's like, "Yeah, you think? You should do something you didn't actually process in law school, like Con Law."

Lee Burgess: Right. And another thing you want to think about is how you did your [memorization](#). A lot of these large commercial providers really don't tell you to memorize too early. They tell you to kind of cram it in in the last couple of weeks. We think that's a terrible piece of advice for most people. So, if you started memorizing really late and didn't retain enough information, then that's a really good flag of something you need to change for this time around and start memorizing much earlier.

Alison Monahan: Yes, memorize earlier, and also memorize less. So you want to have some sort of body of material that you have some possibility of actually putting into your brain, and that is not like multiple telephone books. You've got to narrow this down, you've got to use shorter outlines and things like that. We'll talk in a minute about different tools and things, but the basic idea is if you did not feel confident going in about being able to write down rule statements and things like that, that's definitely something to address.

Lee Burgess: Yeah. And then something else that we hear all the time is what other stuff was going on, what external factors hindered your ability to study effectively. This



could be something like work – maybe you were working and studying – that's an important one to evaluate. But there's a whole host of stuff we hear about – mental health challenges, illnesses, issues with friends and family, having babies, nursing babies, having babies that don't sleep, getting married, moving, taking vacations.

Alison Monahan: Right, there's a lot of stuff that can happen.

Lee Burgess: Yeah, it's like all of that stuff can really prevent you from performing at your best. That doesn't mean that we are advocates of just disconnecting from life and going in a hole and only studying. I don't think that's what's necessary. But if you are planning a huge move in the middle of your bar study, that's just going to make it harder to study for the bar. You better start studying earlier and give yourself some padding for that.

Alison Monahan: Right. Or people tell me they had to have surgery and things like that, and recovering from things. You've got to be realistic, to what extent did that possibly impact your ability to take this exam successfully, and is it going to be something that's ongoing? Maybe you've completely recovered and it's fine, or maybe you haven't. That's something you're going to have to take into account as you study again.

Lee Burgess: And many students who had health concerns come up during the bar. The other question you should probably ask yourself is whether or not you're going to need [accommodations](#) for the next sitting. I think a lot of times people forget that you can get accommodations for physical needs. So for instance, I had a student once who had a heart condition that wasn't supposed to sit for long periods of time without standing up. And so, that person needed accommodations to have extended time, so he could get up because that was just part...

Alison Monahan: Right. Or a standing desk.

Lee Burgess: Right, or a standing desk. Or you need water on the desk. Most bar examination sites don't allow you to bring any liquids. Or perhaps you have to eat, or take medication, or pump breast milk. There are so many options that if you have a condition in your life that's making it more challenging to sit for this test, you also want to ask yourself whether or not there are accommodations. I think we're going to talk about this a little bit more later, but there can also be options of these accommodations for some of these medical conditions, outside of the ones you typically think of, that can help you perform at your best.



- Alison Monahan: Right. And if this is something you want to consider, it's definitely something to deal with early.
- Lee Burgess: Yes.
- Alison Monahan: Alright. Well, after someone's kind of gone through this analysis and I said, "Okay, I think I have a pretty realistic idea of what happened here", the next question you need to ask is, what do you need to change about your preparation or anything else in order to pass? And I think this is really critical, because sometimes it's easy to get sucked into, "Well, my bar review provider is just going to give me a second chance for free, and so I'll just do that and it'll work out." And that doesn't usually work out, let's be honest.
- Lee Burgess: No, we talk to a lot of people who just rinse and repeat and got the same result. It's terrible to say, but it's usually true. You also have to remember that a lot of those bar providers who give you the program free for the second time, it shows that they're not really changing anything. They don't have to invest much more to give you access for another round, so that's kind of how you want to frame thinking about this. It's like, okay, well, their product is not changing, right? It's going to be the same lecture, it's the same exercises, the same model answers, the same everything. But that didn't work. So, the reason they can give it to me for free is it doesn't include any more real effort on their part. That's another way to think about that. So you may need some different tools.
- Alison Monahan: Right. On that point, I think there's also an argument if you are going to just sort of re-use that same tool, to use it differently.
- Lee Burgess: Fair point.
- Alison Monahan: So, it's not that the material and things that you need are not necessarily in there; it's that maybe you didn't use them.
- Lee Burgess: True.
- Alison Monahan: Or there are different ways that you could kind of take more control of your schedule and you use those same underlying resources. Do I think that's your best choice? Probably not. But there's an argument to be done.
- Lee Burgess: Well, sure. And if you are strapped financially and that's your option, then think about how to make the best of that situation.



Alison Monahan: Right. More active learning, actually focusing on your weak areas, things like that. I think you can use that underlying body of information, but I also think there are probably some other tools and things that might be more effective.

Lee Burgess: So, some of those tools are UBE-specific resources like [AdaptiBar](#) and [UWorld](#) that use the real released questions from the NCBE. I think you should do trials of these two tools and decide which one feels better to you, because I don't think one's better than the other. I think it's just a personal preference, personally. But UWorld is newer, so people are very excited about it.

Alison Monahan: Well, basically, I think if people understand or are more motivated by visual type of explanations, or kinesthetic type of learners, I think the UWorld is probably a good option to look at. I think AdaptiBar is also good. They're very similar, so I think definitely getting that free trial and just kind of seeing which one you respond to. I think having either one of them is great, because you can track how you're doing and that's really important. But basically one or the other of them is fine.

Lee Burgess: Yeah. It's also important to have some quality outlines, but not too many of them, because I did speak to someone recently who was clearly on an outline collection spree. So there were short outlines, longer outlines. You just really need one solid set of outlines. We like [SmartBarPrep](#) because they tell you what's most heavily tested in the outline, and I think that that's very helpful. But I would pick some more condensed outlines than a 500-page outline book, because you can probably learn what's in those more condensed outlines. But just pick one, because overwhelm is not going to help you when you're creating a plan either.

Alison Monahan: Right, exactly. And also at this point, you have more information about what happened and how you did, so hopefully in the areas that you did pretty well in, you felt confident in, you don't need to go back and start reviewing from scratch like a 100-page outline. It's just not necessary.

Lee Burgess: Right.

Alison Monahan: So I think the shorter outlines that you primarily work from is really useful, and also it's going to help with that memorization.

Lee Burgess: Yeah, and you can always supplement them, you can always add to them. If rules come up in your practice that aren't included in the outline, there's nothing to say that you can't add them to the outline. Magic!



Alison Monahan: Right. You can even make your own.

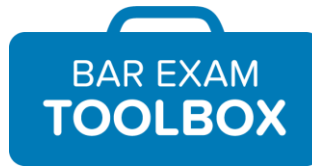
Lee Burgess: If you're like, "This is a rule that I don't remember, I'm going to add it to the outline." But it's a much better plan to take something and expand on it than to try and take something very, very lengthy and condense it into something that is memorable.

Alison Monahan: Yeah. I think you just have to be constantly thinking, "I don't need to know everything, I just need to know what I need to know. I'm going to start from something small, and then if I have to occasionally add to it, that's fine." Maybe ends up 5% longer. But if you start with something that's massively too long and not really focused on what's actually likely to show up and you try to do all of it, I think that's when you get into these situations where you're just absolutely bombing certain questions that were pretty predictable in some cases, because you just don't have that information because you didn't realize it was more important than something else.

Lee Burgess: Yep. It's also important, if you struggled with the writing portion, that you have some sort of writing strategy going into study again. Hopefully this means a lot of writing and feedback. And one of the ways you can get feedback is by doing some facilitated practice like our [Writing of the Week program](#), where we walk you through practice questions and help you self-evaluate your work. So, it's not just doing the writing that's important; it's making sure that your writing is meeting the requirements of what's necessary, and then fixing it if it's not. And that feedback loop, you can get it from a tool like that, you could get maybe some feedback from someone at your school, maybe you hire a tutor. But you've got to come up with a way to do writing practice and then figure out whether or not it's going well. And if it's not going well, how do you fix it?

Alison Monahan: Yeah, and I think part of this is also the process. So sometimes people don't really have a standard way that they do this, and so each question they're kind of approaching willy-nilly, and that is not the way to go into this test. You want to have a very honed, streamlined, tested way of approaching every single question: "I'm going to read it this way, I'm going to mark it up this way, I'm going to make an outline this way, and then I'm going to get from my outlines my answer this way." You mentioned earlier a structure: "This is the structure I'm going to write in." You don't want to be thinking about any of that on the test.

Lee Burgess: Yeah, no, it's very true. You want it to be a habit. You have to do something over and over and over again for it to become a habit. Making habits is very boring.



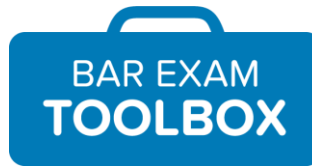
Alison Monahan: It is. And so many people just honestly don't write enough – they don't write full answers, they don't write enough answers. If I ask them, "How many questions for the MEE were you doing every day?" and they're like, "Well, maybe one or two a week", I'm like, "Yeah, you need to do more."

Lee Burgess: Yep. So overall, when you think of this picture of, "How am I going to prepare differently?", then you evaluate the tools and resources that you have, and then you basically say, "How do I do as much active learning as possible? And then also how am I going to hold myself accountable for focusing on the weaker areas, and not just studying things that I know already because it makes me feel good?" That kind of ongoing evaluation of your own study is going to be really critical to getting you ready for this exam again.

Alison Monahan: Yeah, definitely. And I think this is also the place where you want to think about, "Do I need to get help? Where am I going to get that help?" Like you said, it could be from your school, they have an incentive for you to pass the bar. If not, you might need to hire a tutor. But having somebody who can kind of help you through this process, I think can make the difference between passing and failing, ultimately.

Lee Burgess: Yep. So, we mentioned this a bit, but when we talk to folks who have failed, a lot of individuals had other things going on outside of studying the bar that became a huge distraction. That could be work, not being able to unplug from work to be able to focus on studying. That could be personal obligations, either big ones or daily ones. And so, if you are looking towards a bar season and you've got something major coming up, or even if you're having major financial concerns – maybe you need to go to work and make money so you can take time off to study for the bar. There are lots of different reasons why you need to be realistic and make sure that you can fit studying into this season. And if you can't, then you want to consider delaying, rather than spending time and money just to set yourself up for similar outcomes.

Alison Monahan: Right. I think you've got to really take that step back and say, "Okay, I kind of understand what happened, I sort of have an idea of the tools and the help that I need. How am I going to fit this in around other things going on in my life?" If you've just started a new job and they're demanding 70 hours a week, that's probably not realistic. So, I think particularly if you're working, it has to be a pretty serious conversation with your employer about, "What can I cut back on, potentially, to get the time that I need to study here?" And are you studying when you're actually able to process information, when you're fresh? All of these things. Are you going to be able to take time off leading up to the exam? If



the answer to all those questions is "Absolutely not", then I think you've kind of got to figure out a different approach.

Lee Burgess: Yeah. And the thing is, if it means delaying a season, that's okay.

Alison Monahan: Yeah, that's fine.

Lee Burgess: I've worked with many, many people who've delayed for one reason or another and came back to pass. I think generally speaking, you want to take the next exam offered so you don't lose momentum and the law that you learned, but if it's really not going to go well, just don't. It's not worth it.

Alison Monahan: Right. It's just not worth it if you're looking at the situation of an incredibly demanding job or something like that. There's no reason for you to put yourself through that, you're probably not going to pass. The other thing, if there are accommodations you need, and for whatever reason you didn't get them, or you're not sure you're going to be able to get them immediately – it might be worth postponing until you can just get that set up, know what it's going to be going in, know during your study what you're going to have. And like you mentioned earlier, the cost – if you can't afford to do this properly and pay for the exam and pay for the materials you need and pay for whatever help you need and take time off, there's no harm in working really hard for six months and then doing it later.

Lee Burgess: Yeah, 100%. Another thing to think about with accommodations is if you are in a UBE jurisdiction and your state is not giving you the accommodations you need – you may want to consider taking the exam somewhere else.

Alison Monahan: Yeah, definitely.

Lee Burgess: Where maybe they will give you accommodations, or that they have different accommodations deadline. That may take time as well to figure all of that out, but it's worth considering forum shopping a little bit, because it may get you the resources you need to be able to perform at your best.

Alison Monahan: Yeah. And unfortunately, the accommodations piece also comes with typically a money piece, because you typically need to pay someone who's a doctor, a psychiatrist or whatever, to attest that you need these things. So there are all these moving parts, and I think it's just a question of taking that step back and really being realistic about... And some of this comes down to how close were you to passing. If you're really close to passing, you can probably fit in like a little less time, a little more cramming, that kind of thing. If you're really far off from



passing, that's not something that you're probably just going to be able to fit in around working your normal job. That's just kind of the reality of it.

- Lee Burgess: Yeah. The thing is, 10 years from now, nobody is going to notice when you passed the bar.
- Alison Monahan: Right, they don't care. No one cares.
- Lee Burgess: Nobody cares. So, it feels so big in this moment, which is completely understandable, but when you're trying to set yourself up for success, if waiting six months means that you have a chance to pass, down the road in your career, no one cares as long as you're licensed. Nobody cares.
- Alison Monahan: Right. Why would anyone ever ask you, "Oh, I see that you took six months off and didn't take the second bar." It's like, "Yeah, because I was doing this other thing."
- Lee Burgess: Right.
- Alison Monahan: "And then I passed and here I am, I'm a licensed attorney."
- Lee Burgess: Right, that's all that really matters. So, sometimes you might be forced by your job to take the exam the immediate next session, but if you have some flexibility, it's worth taking a beat and making sure it's the right exam to take.
- Alison Monahan: Right, and I think if your job is insisting that you have to take and pass this next exam, then they have to help you with that. They have to give you the time off or at least allow you to take unpaid leave to study, because how are you supposed to do this if you don't have the time and energy to actually study? So that just might be a serious conversation you need to have with them.
- Lee Burgess: Yep. Well, we are running short on time. Are there any final thoughts?
- Alison Monahan: I guess my final thought on this is really just look at the data. Look at that score report, some states are better than others about giving you that information. Make sure you understand it, make sure you understand what the MBE percentages we've been telling you because that can be very confusing. But then just really look at it. Ultimately, this is just a test. You just need to accumulate enough points to pass, it doesn't have anything else to say about anything. So if you can really use that data to figure out, "This is where I need to spend some extra time and energy" – hopefully that's what's going to enable you to get those points that you need, which is really all it is.



Lee Burgess: Yeah, I think that's true. And I would add to that, to make sure that you're working on getting yourself into the head space where you can sit and look at the data, because I think that maybe when you are in those first stages of grief, the data, you just don't want to dig in. You don't want to self-evaluate and that's fine, then just walk away for a little bit, take a few days to regroup, that's really okay. But make sure you're in the right head space that you can evaluate what went wrong and come up with solutions without getting super defensive. And if you're not in that good head space, walk away and come back.

Alison Monahan: Right. And I think that's the same thing if you have the ability to get your actual answers, you ought to do that. And I think a lot of time people understandably don't want to look at them. And again, maybe you don't look at them. Maybe you have somebody else who's a trusted friend from law school look them over and see what you did. But ultimately, ideally, you want to take a look at what you actually did on the exam, even if it's kind of emotionally draining.

Lee Burgess: Yeah. Well, with that, I think we're out of time. Good luck to everyone going on this part of the journey. I know that it's super frustrating, but you can do it! You can regroup, we see people pass after failures all the time. It is possible, it's just a crummy process that you have to live through. I want to take a second to remind you to check out our [blog](#) BarExamToolbox.com, which is full of helpful tips 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 are still in law school, you might also 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 or alison@barexamtoolbox.com. Or you can always contact us via our website [contact form](#) at BarExamToolbox.com. Thanks for listening, and we'll talk soon!

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