PART II

REPEATING THE BAR EXAM:
THE NEXT TIME IS THE LAST TIME
THERE ARE NO SECRETS 
TO SUCCESS. IT IS THE RESULT 
OF PREPARATION, HARD WORK, 
AND LEARNING FROM FAILURE. 

— COLIN POWELL —

DIAGNOSIS AND TREATMENT PLANS
Do any of these reasons people commonly fail the bar exam fit your situation?

1. You were not worried enough.
You got by in law school—maybe not top of your class but you passed everything and graduated. You thought you would knock it out on the bar exam. You thought, It can't be that tough. But it was.

Solution:
If the bar exam was harder than you expected, you need to train more rigorously this time. This exam is a different ballgame from law school, physically and mentally. Bar exams last for days and are exhausting. In law school, each final exam covered one subject alone; the bar covers a host of subjects, all of which require you to memorize and quickly recall many rules. And bar applicants are more stressed-out than you may have anticipated; you may have been thrown by the psyche-out factor. Get on a new study schedule now. Review all of Part I, especially Chapters 4–7. If you can, take off time from work to study so you can give the next months total concentration.

2. You were too worried.
You were filled with so much anxiety that you could not relax enough to learn the material. You couldn't absorb the rules because you were completely stressed.

Solution:
This time, plan to sleep more, take more breaks, and do more physical exercise. You cannot study effectively for twenty hours a day, and you don't need to in order to pass.
Just be diligent, disciplined and give it a good six-to-ten-hour day. (Remember: Any time estimate is just that. I cannot tell you how long it takes to learn something. Bottom line: use every day as productively as possible. Slow and steady wins the race.)

3. You did not really learn the law.
You did not know enough law. You may even have memorized rules but didn’t understand them and therefore did not know how to effectively apply them under the time pressure.

Solution:
Get that, accept it, and hit the books. You will learn the rules this time. If you don’t understand the explanation of a certain concept in one source, try another. As a lawyer, if you did not understand the client’s problem, would you wing it? No. You’d learn what you needed to know (or refer the case out if you must).

4. You learned law, but did not train by doing hundreds of practice tests under timed conditions.

Solution:
Imagine an out-of-shape person wanting to be fit. He or she reads dozens of books on fitness, watches fitness videos, and reads fitness blogs, but does not exercise. That’s what reading outlines without doing practice tests will get you: well read but not ready to perform! Remember the Olympic metaphor: the essays, MBEs, and PTs (if you have one on your bar exam) are three separate “events” that you are competing in. Train for them.

5. You were “The Dreamer.”
You went beyond the scope of the fact patterns. You read into things. You assumed facts not in evidence.

Solution:
The graders want you to answer the questions asked and use the facts given. So, next time, read slowly and carefully. Stay away from “what ifs.” Analyze the facts they give you. Use those facts and only those facts to prove your points. (Review Chapter 8.)

6. You have weak reading-comprehension skills.
You really don’t understand what you are reading. Either you are nervous, trying to read too fast, or have not developed your reading skills thoroughly enough.

Solution:
The bar, like all standardized tests, is largely a test of reading comprehension. Reading is the success thread that runs through every form of testing. Your reading skills must be in top shape to pass. Work on reading and self-assessing. (Study Chapter 8.) Read aloud and touch each word as you read. Do many practice tests and study the model answers so that you see where your reading is not careful or precise enough. (If you have time and want a good exercise, try reading and summarizing, in one to three sentences, all the articles in the opinion section of the newspaper or a new blog each day—this will develop your comprehension skills and keep you informed at the same time!) Last, get help if your reading weakness is due to an ESL issue.

7. You are a practicing attorney in another jurisdiction.
You are licensed to practice in another state. You may have been practicing for years. You took and passed at least one other bar exam but are having difficulties passing this one. First, acknowledge that you may be angry at having to take the exam in the first place. You are an attorney, after all. You are licensed. You have done your time. You shouldn’t be asked to take another test. It’s been a while since you were a student and you resent this imposition. (Note: This same challenge may be true if you are an accountant, physician, engineer, or any other professional who went to law school as a second or third career.) Next, you are knowledgeable in the real world. You might know too much. You think of too many practical issues.

Solution:
Try pretending you are back in school. Reread Chapter 8. (Try pretending you are back in math class, long before law school.) Be sure to spot the major issues and write a complete and logical analysis for every question. This is not shorthand to help you resolve a client’s problem. This is longhand. Prove your skills for the grader. “Show the math.” Also, lay off the jargon unless terms are used in the problem. Don’t use flash to impress graders; it won’t. Write in simple IRPC style (issue, rule, proof, conclusion)—in short, complete, plain English.

8. You write illegibly.
If the graders can’t read what you wrote, they won’t. (See Chapter 8) They will not assume you wrote the right things. They will not give you the benefit of the doubt. The burden is on you, not the grader.

Solution:
Use headings and subheadings. Leave clear margins; leave spaces between paragraphs and double spaces before and after headings and subheadings. Underline, bold, or ital-
cize key terms sparingly. Make your presentation easy to read! Be sure also to practice with exam software ahead of time.

9. **You don't manage time well enough.**
You didn't bring a watch or clock with you to the exam, and/or you didn't look at it. Either way, time ran away without you. You were caught with moments to go and unanswered or barely answered questions.

**Solution:**
Even one question left unanswered is enough to fail you—especially if it's a performance test question that is worth a big percentage of your total grade. Practice a lot, and under timed conditions, with a big, easy-to-read clock. (Check your state's rules on what sorts of clocks or watches, if any, you can bring in. If, for some reason, you are not permitted your own timepiece, find the clock in the exam room and check it frequently.)

10. **You are not ready to or don't want to be a lawyer.**
Maybe you went straight from college to law school, and are still a little overwhelmed. Maybe you know too many lawyers who hate their jobs. Or maybe you are too focused on the difficulties in finding a law job.

**Solution:**
Quick fix: Put it all out of your mind. Pass the exam. Then decide what to do to earn a living. One step at a time. (See Chapter 2 for more thoughts on this challenge.)

11. **If none of those reasons fits your situation, maybe you were simply unlucky.** Some people do just have a bad day or bad luck. If so, dust yourself off, and get back to work. Pass the next bar exam!

---

**WHAT DID YOU DO THAT YOU SHOULD NOT HAVE, LAST EXAM?**
Your turn: If you are repeating the exam, why are you here and what steps will you take to ensure (not just hope) that this is your last exam? Did you get distracted with personal issues, spend time in chat rooms, or worry too much? Did you find yourself thinking, 'People like me always fail the bar exam'? Did you hope it wouldn't matter that you didn't know the law in certain subjects as well as you should have?

---

Take a moment now and jot down some things you did that you now see hurt you.

---

What didn't you do that you now realize you should have done?

Did you skip the supplemental bar review that would have given you the extra guidance or motivation on essay writing that you knew you needed? Did you skip or not do practice tests under timed conditions? Did you do practice tests but skip the crucial step of analyzing the sample answers?

Note several things you should have done last time, did not do, and are committed to doing next time:

---
Were you healthy and strong enough to focus for the entire exam?
Do you need to exercise regularly this time, and take better care of yourself?

______________________________________________________________

______________________________________________________________

______________________________________________________________

______________________________________________________________

Do you need to see a doctor about anything?

______________________________________________________________

______________________________________________________________

______________________________________________________________

______________________________________________________________

Did you have a mentor?
Did you have support from the people you love or live with? Were there any detractors? Did you deal with any naysayers as well as you could have? (See Chapter 6.) Did you get "buy-in" from whomever affects your day-to-day life? Were you working and did your employer know you were taking the exam (and support you in that effort)? And did you have a credible, helpful mentor with whom you regularly talked or e-mailed?

______________________________________________________________

______________________________________________________________

______________________________________________________________

______________________________________________________________

Jot down any thoughts about lack of support you may have felt last time, and what you can do this time to bolster your support system.

______________________________________________________________

______________________________________________________________

______________________________________________________________

______________________________________________________________

Was your computer working properly?
Did you have any technical problems? Did you fear having such difficulties?

______________________________________________________________

______________________________________________________________

______________________________________________________________

______________________________________________________________

Was your machine in good working order? Did you practice with the software you had to use during the exam?

______________________________________________________________

______________________________________________________________

______________________________________________________________

______________________________________________________________
Use your scores to help determine why you did not pass.
Were you weak on the law? All subjects or certain subjects? What must you do to learn what you need to between now and the next exam? Were you weak on essay or performance test writing? Do you need a supplemental writing course? Were you weak on MBEs? Do you need an intensive MBE review? These are among the many questions you need to ask yourself, so you can move forward and create a bar exam success plan tailored for you to pass the next exam. Note: In some places, you just get back scores when you fail the exam, while other jurisdictions will allow you to review your actual exam. If you have an opportunity to look at your exam, take it. And if you do not see clearly what is wrong and how to improve, get help from a reliable expert reviewing your answers.

After reviewing your scores or answers (if you have access to them) on the last bar exam, what are your preliminary conclusions?

---

12

I FEEL LIKE I WAS KICKED IN THE TEETH

- Get up and dust yourself off
- Avoid psyching yourself out
- Accept where you are and refocus on success on the next bar exam
- Assume responsibility: do not try to shift the blame
- Put it in perspective
- Dealing with others who learn you did not pass, especially during the holidays
“TO BEAR FAILURE WITH COURAGE IS THE BEST PROOF OF CHARACTER THAT ANYONE CAN GIVE . . . YOU WILL FIND THAT PEOPLE FORGET THE FAILURES OF OTHERS VERY QUICKLY . . . MY LAST PIECE OF ADVICE IS NOT TO LET ANYONE SEE YOUR MORTIFICATION, BUT WHATEVER YOU FANCY PEOPLE ARE SAYING ABOUT YOU TO GO ON WITH YOUR ORDINARY LIFE AS THOUGH NOTHING UNPLEASANT HAD HAPPENED TO YOU.”

— W. SOMERSET MAUGHAM —

One of the biggest barriers repeat takers face is moving past the hit to your confidence. Even for people who accurately diagnose what needs to be fixed, it may be rough to shake off bad feelings. Remember, you are not a failure. You never have been. You never will be. This is not a referendum on who you are or what you are capable of. It is news; not good news, but news that can inform you if you let it. You can learn a great deal about what path to take next on your road to success.

Learn from your past; don’t let it define you. If you weren’t frustrated, you would not be normal. How can someone invest so much and not be frustrated? You put in years of study—your time, your money, your sweat, and your pride. But you are not alone, and you can turn it around. You did not pass this past bar exam, but you did not fail as a person. Once you get over the disappointment, you can turn this into a challenge, and go into problem-solving mode to figure out how to pass next time. If you think
success means never failing, think again. Learn from this so-called failure and make it your step to success on the next bar exam.

GET UP AND DUST YOURSELF OFF.
What do you do when you trip and fall? Do you lie on the ground, give up, and say, "I will never walk again"? Do you lose confidence in your ability to walk? Of course not. Usually, you get up, brush yourself off, and are on your way. Even after a bad fall, even should you be hurt seriously and need medical care, what follows is healing. Except in unusual circumstances, as long as the will to succeed is there, anyone you talk to who tripped up on the last bar is a person who can walk forward and pass the next exam.

You do not even get the opportunity to take the bar exam without a huge investment, and many steps of proving yourself worthy. If you were a person who at the first stumble simply left the path and looked for a smoother trail, you would not have finished law school, let alone applied for and sat for an entire bar examination. The fact that you got far enough to even take the bar exam is itself evidence of your potential. Your job is to get up, get going, and realize that potential.

If you were the sort of person who gave up easily, it is doubtful that you'd have chosen law school to begin with. Learn from past experiences. Turn this into a strength.

Avoid psyching yourself out
To pass the bar exam, think about passing. Believe you can pass, that you deserve to pass, and that you will pass. Don't let in the idea that you could fail again. I recently participated in a defensive driving class for teenagers, led by professional race car drivers, and found an analogy to bar passage. The race drivers reminded the students that to drive safely and avoid crashes, you must keep your eyes focused on the road where you want to end up. Even if you swerve or your car loses control, keep looking where you want to go. Do not look at what you fear you may crash into. They led the students through one exercise, a slalom course with cones scattered on the pavement. We were to drive fast, weaving in and out to avoid as many cones as possible without losing control of the vehicle. Their advice on how to do this was to focus on the open road in the distance, beyond the cones. We would see what we needed to avoid hitting the cones with peripheral vision. Stay focused on where we wanted to end up, they said, and we would get there. (If we looked at the cones, they warned, we would likely hit them.) Don't look at the obstacles in your way. Look at the open road of the future ahead. It is common for people who failed a bar exam to believe they will fail again. Turn that belief around. Focus on success.

THINK FALL AND YOU WILL FALL; THINK FAIL AND YOU WILL FAIL.
I went skiing for the first time in several years and was out for about an hour having fun and did not fall. Suddenly, I began thinking, I haven't fallen yet. I wonder how many times I will fall today. Wouldn't it be great if I didn't fall at all? I hope I don't fall. What if I get hurt? You can guess the rest. I soon thereafter went sprawling! When I hadn't been thinking about it, I was fine, but as soon as the thought of falling entered my mind, I fell.

Accept where you are, and refocus for success on the next bar exam.
The first question many people ask is, should I take this very next bar or wait out an administration? Most often the answer is take it again as soon as possible. If your scores were close and you can devote serious time to studying for the next exam, the answer is definitely yes. Momentum will help. Your memory will be fresher in rereading and reviewing the material now than it will be six to eight months from now if you delay until the next exam. If your scores were very far from passing, indicating a serious deficiency in all or a number of areas of law, or if you know that this upcoming bar you are otherwise occupied with commitments that cannot be postponed, then you may be better off delaying and putting yourself on an extended study plan. This decision—whether to retake the very next exam—is one you must make quickly, though, to avoid missing filing deadlines or paying late fees.

Take a few days to absorb the shock and to mourn, and then consider the advantages you now have, repeating the exam:

- The more you put in last time, the easier it will be for you to learn what you need and pass this next time. You may think you forgot everything you knew six months ago but you didn't. Depending on how far and where you fell short, you may be close, and with daily practice exams, you may get there fairly easily. Or you may have to really work hard in one area, but be pretty strong in the others. The key is to learn where you are and where you need to get to. Don't allow the frustration to take over. The bar exam is doable. And, again, it may not even be
as much work as it was the first time around. Do not decide that the bar exam is insurmountable. It is easier than law school. You can do this.

- You have data from which to create a smart, strategic plan to improve. Use that information!

Were you weak in a particular subject? (If that subject is an MBE subject, look to see if you were weak in that area on both an essay and the MBEs.) If you were only weak in one or a small number of areas, you may not need to take another full bar review. You might just need to get some supplemental materials in that one area and get on a “maintenance” plan for the rest of the exam.

Were you weak in certain skills? Perhaps the MBE was easier for you, and you did well on it, but your essay scores were low. This may mean you know and understand the law, but do not articulate it well enough or have not trained sufficiently in using facts to prove or disprove rules of law, and your analysis is insufficient. You may benefit from a supplemental writing course while you continue to work on daily MBEs on your own.

Did you just blow the performance tests? Many people do not practice these as much as they develop MBE and essay skills, and find that they fall down on this portion of the exam. Consider a supplemental performance test course, or a book designed to help you prepare effective PTs.

Now remember, your review for February must still cover everything. You wouldn’t dream of thinking something like, “I only failed by a couple of MBE questions, so I’ll just focus on those and I’ll do fine.” No. You are taking the whole exam again, so your focus is on a comprehensive study approach that covers everything that is tested on your bar exam. You may give more attention to certain subjects than others, but you are studying everything carefully.

Did you get tired? When? In the afternoon? Every afternoon? Was day 1 more difficult or less difficult than day 2?

You should not be as nervous as the first-time takers around you. You know what to expect. You have what I call the been there, done that edge! You will stay calm and focused this time. With your slow and steady wins the race attitude, you will do it.

Accept responsibility. Do not try to shift the blame. Get rid of any thoughts resembling this: Those stupid graders just must not have seen what I wrote. I know it was all there. I’m not even going to look at my old tests. Replace such thoughts with this: I will look critically at what I did and what I did not do last time and I will take the steps necessary to pass this time.

Too many people spend precious time and energy blaming others for their failures. (My professors in law school didn’t cover that. My bar review didn’t give me enough helpful critique on my writing. My ASP professor didn’t warn us how hard it would be.) All of these thoughts are a huge waste of time.

You need to get out the anger, sure. You need to move past the disappointment, of course. But take responsibility. This was your exam. And the next one will be your exam as well. Decide what you will do differently. You make the changes.

---

**SPENDING MORE MONEY**

One of the toughest parts about retaking the exam is deciding what sorts of courses to take, and spending more money on preparation tools. Do not react impulsively. Do not just throw money at the problem without thinking carefully through where and what kind of help you really need. But, then, after you see what you need, do not skimp. If you need another course, take one. People will prey on your fears. Don’t “jump” at everyone who promises that they can help you. But do take care of yourself.

---

**Put it in perspective.**

There are plenty of wise sayings. The adage “That which doesn’t kill us makes us stronger” comes to mind. Or Babe Ruth’s wonderfully inspiring “Every strike brings me closer to the next home run.” Wise sayings do not take away the pain, but they really might help if you let them. Seeing your name on the pass list was the home run you sought. But if last time was a strike, the key to future success will be to get closer to the home run. Reframe this from a failure to a setback. Turn things around. As soon as you can pull yourself out of the anger, frustration, and sadness, focus on success this coming February.
Dealing with others who learn you did not pass, especially during the holidays

The timing of bar results is such that those who do not pass the July bar will most often prepare to retake the exam the following February, which means they will be studying during the holiday season. The holidays (Thanksgiving through the New Year) are often a difficult time, even without bar results in the mix. It may be very hard this year to eat, drink, and be merry with family and friends. For those of you who are now formulating your game plan to turn things around in February, gala festivities can sometimes be devastating, either because of your own beating yourself up or because others make offensive or insensitive comments.

Try not to let bar results ruin your holidays. You are in control. Use these top ten suggestions to help you cope:

1. Expect that these holidays will be particularly hard. Knowing that this may be a stressful time will make it easier than if you are blindsided by the negativity you feel when confronted with cheer at a time you are not feeling cheery.

2. Limit your time at holiday gatherings. You should have a study schedule anyway, and you should have already canceled or be actively working on canceling or limiting as many things as you can to clear your path for studies in the next months. So accept those few invitations that will make you feel good (or better), and turn down all the others. For events that you do attend, plan to go for an hour or two only. Leave on a high note, and get back to studying or go to sleep so that you can get an early start on studying the next morning.

3. Unless cooking and entertaining inspire you, excuse yourself from hosting any holiday gatherings this year. If it is a must that you host, make things as easy as possible. Take every shortcut you can. Buy prepared foods, let others bring dishes, and be sure you have help with setup and clean-up. (Excuse yourself while others clean up so that you can study, or sleep!)

4. Surround yourself with positive people. Avoid negative comments and negative vibes. This is a must! If there is anyone, anywhere or in any part of your life, who is communicating to you directly or indirectly a lack of faith in your ability to pass the bar exam, get away from that person, minimize contact with that person, or put him or her off until March. It is a must to believe in yourself, to believe that you can and will pass the bar exam, and to surround yourself with like-minded people who will lift you higher. Avoid those who drag you down.

5. If someone starts up a conversation, probing you on your results, end it quickly. Ready yourself with responses to change the subject, and if necessary, politely excuse yourself. A direct response that can cut off probing may be something like, Yes, I missed this past July. My focus is on the future now, so that's all there is to say about last time. Thank you for your concern. Then launch right into a question about that person, to be certain the subject is changed.

6. You do not need to discuss the past. If you want to—if it helps you to talk about it—go ahead. But if you do not want to talk about it, it is your choice. Change the subject, or politely excuse yourself and walk away.

7. You do not owe anyone any explanations.

8. Do not drink and drive. Of course, that is advice for any occasion, but there are a couple of problems at holidays just after you learn bar results. One, people might try to get you drunk to make you feel better, and two, you may drink more than usual to drown your own sorrows or escape.

9. Be sure to exercise. If nothing else, take walks. Schedule them. Don't skip them. Walk off the stress of it all.

10. Sleep. Do not neglect your sleep. Things tend to look gloomier when you are tired. To keep your spirits up and your study skills sharp, get lots of rest.

Armed with awareness and some solid strategies to avoid those parts of the holidays that might otherwise have gotten you down, you can move effectively through November and December, already on a powerfully positive study plan. You will begin the new year with the groundwork in place for the intensive, quality work you will do in January and February, in a diligent and disciplined manner, to pass the February bar exam.
13

RETHINK "FAILURE" AND USE YOUR PREVIOUS EXPERIENCE AS PREPARATION FOR SUCCESS

- You have the "been there, done that" edge. Use it!
- Complete your new strategic plan
- Changing your approach
YOU HAVE THE “BEEN THERE, DONE THAT” EDGE. USE IT!

Whatever you did or did not do preparing for or on the last bar exam, now is the time to face up and make the necessary changes. Figure out what you need to do for success next time.

You can understand the major rules and theories. You got through law school, right? There may be weaker subjects but there is nothing tested on the bar exam that you are incapable of understanding.

- Maybe you need a different approach or a different professor or study guide to explain certain concepts. Perhaps you should try a new bar review this time.
- Maybe you were tired when bar review classes were held, or you were distracted by others in the classroom if you took a live class.
- Maybe you need substantive lectures (and even writing workshops) that are recorded or online so you can listen again and review points you did not clearly understand the first time.
- Maybe you need to do some serious practice writing and submit your exam answers for real critique—not just a number grade at the top of the page, but actual comments that tell you where and how to improve.
- Maybe you need your own tutor or bar coach—someone who will not just help you in a room of hundreds of other applicants, but guide you to the success you know is within your reach.

Whatever you decide, believe you can do it this next time. Reach out, and make the effective changes that will take you to success next time. From pass rates alone, you know that many applicants did not pass. Probably some of your classmates and friends did not pass. Again and always keep at the forefront the knowledge that this is not a reflection on your ability to pass the next bar exam.

Complete your new strategic plan
Create a smart, new strategic plan. Consider targeted improvement. You may not need a full bar review again. You may want to invest in a different entire full-service bar review course.

Change your approach
The approach you will take to study for a second bar exam must differ from the first.

- If you did all the “right” things but not enough of them, do more this time.
If you studied passively (reading outlines and listening to lectures) but didn't do many practice writing exercises under timed conditions, change that. Get cracking!

If your focus was heavier in subject areas you were comfortable with, study the weak ones more thoroughly this time.

In addition to study changes, what other changes will you make? Consider a few life changes that might really help:

- Get more sleep.
- Minimize time spent on e-mail, texting, and web use generally.
- Keep a more regular, disciplined study schedule that starts earlier in the day.
- Approach this exam differently; take it seriously enough to give it your all, but not so seriously that you freak yourself out with stress.
- Avoid all people other than those who believe you can pass and with whom you feel strong, smart, and capable.

Take a moment and write what you know needs to be in your strategic plan to pass this February.

Now go back to Chapter 2, and create your new bar exam success plan. Start fresh, adding in the points you made just above. Reread all of Part I and replace the words first or first time with this next bar exam. Commit to success on the February bar exam. You can do it.