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Previous

Next

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Manage your stress, and pass the test

Rebecca Ann Simon is an associate professor in the Academic Success and Bar-Related Programs department of Southwestern Law School and will be the co-director of the Mindfulness, Stress Management, and Peak Performance Program at Southwestern. She is also the co-chair of the Mindfulness Affinity Group of the American Association of Law Schools (AALS) and the executive director of the newly established national Mindfulness in Law Society.



The next administration of the California Bar Exam begins Tuesday. Thousands of hopeful law students from all around the state are gearing up with millions of collective study hours over the last 11 weeks to prepare for the historically difficult three-day licensing exam. Last summer 8,736 individuals took the bar exam and only 4,026 passed (46.1 percent). Although there has never been a greater abundance of test preparation materials available to students, and the bar exam is designed to be of uniform difficulty from

administration to administration, still over half of test-takers are failing. There is an explanation: The enemy is not the exam itself; instead, the enemy is stress. If you are about to take the exam, the most important thing you can do is manage your stress. Here are three techniques to help you with stress management leading up to the last three-day long bar exam in California.

Most Importantly: Stay Calm, There Is No Tiger

Human biology and physiology is complex, but we know the basics: Stress causes changes in our body and also affects our emotions. One extreme reaction to stress is a panic attack. Stress can affect us both instantly (acute stress) and over time (chronic stress). Acute (short-term) stress is the body's instant response to any situation that seems demanding or dangerous (e.g., the bar exam).

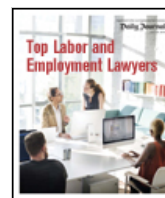
For early humans the majority of stressors were physical (beasts: lions and tigers and bears!), which required a physical response - the oft-quoted "fight, flight, or freeze" response in the body. The trouble is, when we perceive a stress (threat), our minds still to this day are wired to process that stressor as the animal coming to get us. The body's "sympathetic nervous system" responds to the threat automatically. We know when our sympathetic nervous system takes control of our bodies when muscles tense, hearts beat fast, palms become sweaty, stomachs hurt, or we feel suddenly "in a daze" and cannot think straight.

This response in the body serves to mobilize energy stores, such as glucose (to fight), to increase cardiovascular rates, providing oxygen for vital organs and muscles (to flee), and to decrease bodily processes, such as digestion (to freeze). This would all be great if

Friday, July 22, 2016

SPECIAL REPORT

Labor & Employment



Weekly Appellate Report Podcast

Justin Brown (Brown & Nieto), appellate counsel to Adnan Syed, chats long-shot criminal appeals; Ben Feuer (Cal. App. Law Group) previews OT2016's design patent rumble between Samsung and Apple



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California Supreme Court Government can enter property for testing before eminent domain, court rules

Gov. Jerry Brown's \$15 billion water conveyance plan dodged a legal roadblock Thursday when the state Supreme Court ruled that government entities can conduct extensive tests while mulling whether to permanently acquire private property under eminent domain.

Intellectual Property Google seeks sanctions against Oracle, attorney over disclosure

Attorneys for Alphabet Inc.-owned Google filed a motion Thursday seeking sanctions against Oracle Corp. and Orrick, Herrington & Sutcliffe LLP partner Annette L. Hurst for making headlines when she disclosed "highly confidential" information in court with a reporter present.

Solo and Small Firms Policy Pilots

Valerie Vanaman, partner at Newman Aaronson & Vanaman, finds herself in a "constantly shifting sand field" of problems in her work as an advocate for children with disabilities as they and their families attempt to navigate the policies of public school districts in the Los Angeles area.

you needed to run away from a tiger attack. But the bar exam is not an attacking tiger. That is, the very thing a student needs for the bar (use of their high level cognitive function to THINK) is shut down during this kind of stress response.

While common sense tells us that being calm and focused can help you in stressful situations, there is a move afoot in legal education to combine scientific advances in mental processes and health research into law school curriculum to advance peak performance for students. For example, Southwestern Law School in Los Angeles will be introducing a groundbreaking stress management Mindfulness Program for the incoming students this fall.

It is well established by scientific research that the body's short-term acute stress response makes us less intellectually and cognitively functional. It is easy to see how the acute stress response hinders a law student's performance on exam day because information recall is the key to success on the test. Los Angeles-based corporate mindfulness coach Jarrett Green, Esq., calls this a "misallocation of mental and emotional resources away from the task at hand." Green notes that "the freezing of high level cognitive function can certainly help in a true life-or-death emergency (as our biology intended); however, this stress response is the opposite of what students need to perform and succeed on the bar exam."

So what to do? Reimagine the test as a little kitten. That's right. Do not let your mind interpret the exam as a tiger coming to get you. Instead, use proven techniques such as mindful awareness, deep breathing or breath counting to help stop your "automatic" stress response. Managing your breathing is a natural tranquilizer for the nervous system and will help bring your attention to the present moment. Realize that the bar exam is just a test (not a tiger). The test requires you only to sit, think, read and write. Help your mind to know you are "safe" in the exam room. No true threats exist (only the ones you generate in your head, e.g., "what if I don't pass - ahhhh!"). Stay calm by eliminating the thought of "threat" and your body will respond accordingly. The bar exam is not a tiger stalking toward you. Invite the exam to come curl up on your lap (nice kitty!). Then, do your best.

Have Confidence in Your "Minimum Competency"

For better or worse, the purpose of the bar examination to test your "minimum competence to practice law." Erica Moeser, president of the National Conference of Bar Examiners, describes the bar exam as "a basic test of fundamentals." While many already in the profession like to debate the efficacy of the bar to test competence, that is not the role of a student about to take the exam. The test exists today and you do have to pass it to get your license. Accepting this truth and not fighting it (during the process) is key.

Remember this: The requirement is to "pass the bar," not "master the bar." Most students have a freak-out session during some part of the study process for the exam about how much material is covered. That is normal. Your job, however, is to continuously remind yourself that you do not need to know everything; you just need to know enough. If you have graduated from law school you already know enough to pass. Now it is about fine tuning your skills through practice and learning to execute for game day.

If you have been studying with one of the big bar companies this summer, chances are they have "condensed outlines" for you to review. The purpose of condensing the material and encouraging you to create and study shortened outlines is to help you see that the bar exam essays are testing high-level concepts. You do not need to memorize the minutiae. Rather, the test is an assessment of whether you have minimum competency to become a lawyer.

The bar examiners want to make sure you can think like a lawyer before they are willing to grant you a license. It is true that the MBE (the multiple choice component of the exam) sometimes does get in to some little details. Unlike the designers of the essays or performance tests, however, the designers of multiple choice portion of the exam give you, the test taker, a generous gift: The correct answer choice on the MBE is always right in front you. Use the facts and your knowledge of the law to eliminate wrong answer choices and arrive at the "best answer." Even with the multiple choice portion, if you perform at a low "C minus level" (around 70 percent) you are generally still passing the bar if you are solid on the other two portions. When your stress levels rise and you feel worried you won't remember it all, tell yourself: "I have minimum competence. I may not know *it all*, but I know *enough*."

The Night Before the Exam: Do Not Study

Judges and Judiciary

Court Futures Commission holding public comment session

The Commission on the Future of California's Court System is holding a public comment session today to discuss establishing a consolidated juvenile court, implementing a statewide mediation process in family courts, and restructuring criminal fines and fees.

Litigation

Arbitration may be off table in BofA fraud case

Bank of America Corp. may have waived its right to arbitrate claims that it mismanaged \$40 million of National Football League Player Dwight J. Freeney's assets, a judge opined Monday, because the bank has already engaged in discovery and filed six motions to dismiss in the case so far.

Prometheus Law executive settles with SEC

The U.S. Securities and Exchange Commission has settled with one executive of a Los Angeles-based litigation marketing company accused of lying to retirees and investors about where their nearly \$12 million investment went.

Education

Vergara facts meet the test

The California Supreme Court has the opportunity to safeguard the rights of millions of schoolchildren if it agrees to hear the landmark case challenging the constitutionality of the state's flawed teacher employment statutes. By **Ralia Polechronis and Alissa Bernstein**

Securities

SEC ALJs continue to draw scrutiny

While early constitutional challenges to the SEC's use of in-house judges appeared promising for respondents, more recent decisions have handed a string of victories to the SEC. By **Nicolas Morgan, Thomas Zaccaro and Peter Brejcha**

Law Practice

Using social media to research jurors

A few courts have gone so far as to suggest that with respect to jurors, online investigation is not only permissible, but expected. Other courts have attempted to outright ban the practice. By **Natalie Vance and Heather Rosing**

Judges and Judiciary

A sense of community between the bench and bar

Here in L.A. we may have acquired a skyline that resembles Northeastern cities, but our high-rises house a tacit understanding that talent counts more than antecedent. By **Anthony J. Mohr**

Law Practice

Manage your stress, and pass the test

The next administration of the California Bar Exam begins Tuesday. Last summer 8,736 individuals took the bar exam and only 4,026

After all this preparation, the best thing you can do the night before the exam is to not study. Do not open a book, pick up a flash card or review any rules. It seems counter-intuitive. But the truth is if you do not know a rule or concept by the night before, you are not going to learn it in the last few hours. A better use of your time would be to pack up and get to your hotel (if you are traveling), check-in, eat a good dinner (familiar food) and even watch a beloved movie. Just relax. Above all, get a good night's sleep. Yes, I am saying your mother was right all along. Getting sleep before the exam must be part of your overall strategy. Research suggests that sleep helps your memory recall time, which, in turn, will enhance your exam performance. If it helps you to think of sleep as a "performance-enhancing drug," so much the better.

Dr. Charles A. Czeisler, a professor of sleep medicine at Harvard Medical School and one of the world's leading authorities on human sleep cycles, emphasizes the role of sleep for good cognitive function. His research is fascinating and complex, but the basic message is simple: if you want to raise performance you need to focus on your sleep as a strategy. Battling nerves to get a solid eight hours of sleep the night before your big day is not always easy. But ensuring you have sufficient rest to perform your best is key. A "wind down" and "sleep plan" for the night before the bar exam can be your secret weapon. It will not matter how many hundreds of hours you have studied if you cannot perform on the day of the exam.

Think of that kitty, breathe, remember you are minimally competent, get some rest and go pass the bar!

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passed (46.1 percent). By **Rebecca Ann Simon**

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Legislation that was introduced at the July 12 San Francisco Board of Supervisors meeting shows the city's willingness to accommodate the rental hosting platform Airbnb. By **Tad A. Devlin and Stacey Chiu**

Alternative Dispute Resolution

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You won your case at the trial level; you believe everything went pretty smoothly, so why be concerned when you receive the notice of appeal? By **Jeffrey King**

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9th Circuit rules that defendants must be prompt to compel arbitration

Judge Stephen R. Reinhardt of the 9th U.S. Circuit Court of Appeals wrote that the Milan Institute of Cosmetology and its president waited 17 months to move to arbitrate a lawsuit alleging the school made students do unpaid labor unrelated to their education.

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