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# The Big Fail Part IV: Picking Up the Pieces After Flunking the Bar

In the latest report in a series on the high rate of bar exam failures, Law.com takes a close look at two law graduates who endured the shocking disappointment of flunking the test and how they embarked on a course to rebound.

By Karen Sloan | May 05, 2019



**Ivana Bologna. Photo: David Handschuh.**

Ivana Bologna doesn't shy away from her failure on the July 2017 New York bar exam.

Flunking the bar—and recovering from that initial shock—taught Bologna how to better handle the stress and pressures of life. But it took time to find peace in that early falter for the graduate of City University of New York School of Law. First, there were tears.

"You're heartbroken," she said. "It just confirmed everything that I had felt in law school—that I'm not smart enough and I don't belong here. At least it felt like it did."

Bologna had plenty of company when she failed the bar exam. According to the National Conference of Bar Examiners, 41% of those who took the bar exam in 2017 did not pass. That means more than 29,045 law graduates had to put their legal careers on hold. By contrast, less than a third of bar takers failed just four years earlier, in 2013.

In the final installment of Law.com's The Big Fail series on sinking bar pass rates, we take a close look at two law graduates who endured the shocking disappointment and how they embarked on a course to rebound.

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***Read earlier installments of Law.com's The Big Fail series that address the reasons (<https://www.law.com/2019/04/14/the-big-fail-why-bar-pass-rates-have-sunk-to-record-lows/>) for record-low bar pass rates, how law schools are trying to fix the problem (<https://www.law.com/2019/04/21/the-big-fail-part-ii-law-schools-try-to-crawl-back-from-low-bar-pass-rates/>), and how legal employers are responding (<https://www.law.com/2019/04/28/the-big-fail-part-iii-hiring-then-firing-as-bar-pass-rates-sink/>).***

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Failing the bar exam can rattle even the most self-assured law graduates and cast an uncertain shadow over their professional future. It disrupts employment offers. Graduates with jobs lined up may see those offers rescinded if they fail even just once.



What's more, many newly minted J.D.s can't begin their legal job search without having passed the bar. Added to that are the financial factors of forgoing work to study for the bar, paying for more exam reviews, and registering for the bar again which can total into the thousands of dollars.

The financial hardship experienced by people who fail the bar exam can be steep, but the psychological toll can be even more profound, said Allie Robbins, a professor at the City University of New York School of Law.

"For some students, this is their first big failure," Robbins said. "They feel like they let their families down—that they let their school and classmates down. It's a pretty devastating thing at first."

Bologna admits to making many of the classic mistakes that bar advisers warn against. "I sacrificed so much, my health and my sanity, for this," she said.

She holed up at home studying, watching Barbri videos online and organizing notes from 8:30 in the morning to 10 at night. Pajamas became her uniform, while healthy eating and exercise were pushed aside.

The week before the exam, she landed in a hospital emergency room throwing up, with the worst headache of her life. Then a few days before the test, she began fainting. "My body was saying, 'Enough,'" she said.



The pressure that comes with performance on a single test is immense, Robbins said, and law grads come to define themselves by whether they succeed or fail.

“It becomes this be-all-and-end-all of their lives, of who they are, of who they’re going to be and their value as human beings,” Robbins said. “They have to deal with that before they can gain some perspective on it.”

After the initial tears and then accepting the reality of failing the test, Bologna did some analyzing and resolved to make big changes in how she approached the February exam. First, she turned to her school. CUNY hosts a luncheon for graduates who recently found out they failed and for members of the previous several classes who passed after multiple tries. The passers offer advice on study strategies and encouragement. Bologna got herself to that luncheon in November 2017, soaking up inspiration from members of previous classes who passed the test after multiple tries.

She also started a long-planned fellowship in New York City Housing Court that occupied two days of the week and required her to get out of the house. She began volunteering, which also helped break up her blocks of bar study. She took lunch breaks. She went to bed early. She even started a ballroom dancing class, a hobby she had put on hold during the rigors of law school.

The changes made a difference. She headed into the February bar feeling more rested and calm. And she landed a job as a Title IX investigator at Brooklyn College the following month, looking into claims of discrimination and sexual conduct by students and employees, a job that taps into her passion for social justice even if it doesn’t strictly require a law degree.

Bologna was at work that April when she learned that she had passed the bar, a moment that capped off nearly four years of studying the law.

## **Not Terribly Confident**

It was Friday morning in September 2017 when Mark logged onto his computer to find out whether he had passed the Washington state bar exam.

He wasn’t terribly confident. Standardized tests have never been his strong suit, and he hadn’t scored all that well on practice exams, despite long hours of study.

Walking out of the testing site in Tacoma that July after the two-day exam, Mark felt

like it was a coin toss. But he was hoping the toss would break his way.

The message on his online portal told otherwise. Six points. He had missed the cut score by six points.

“There’s a huge sense of failure and despondence and frustration and sadness and anger,” he said in an interview more than a year after finding out he had failed the bar on his first try. (Mark, who graduated from the University of Washington School of Law in 2017, requested that his real name not be used so that his bar failure is not the first thing employers see when they research him online.) “Immediately, as a lawyer, you’re thinking, ‘OK, what are the rules here? Is there a review thing? Is there any way out of this?’ And then it sinks in.”

He had more to worry about than just the exam. He was expecting to start a coveted associate job in the Seattle office of one of Oregon’s largest and most highly regarded law firms, a job that was contingent on passing the bar. He needed that \$110,000 salary as a husband and father of three girls. (He requested the firm’s name not be identified in order to speak candidly about the experience.) Friends and mentors earlier had assured him that firms never enforce those bar pass contingency clauses and that he’d surely get a second shot, but Mark wasn’t so sure.

Before he could plot his next steps, there was the onslaught of social media posts from his elated classmates celebrating their success on the bar exam. He was genuinely happy for his friends, but it was hard not to feel bitter that he wasn’t taking a victory lap along with them.

## **Offer Rescinded**

Mark told his firm that he had failed the bar on a Monday, after taking the weekend to digest the news. On Wednesday, they rescinded his associate offer and wished him luck.

“Within four days, everything was gone,” he recalled. “It was tough. But I anticipated it to some degree.”

Statistics show that pass rates on the bar exam drop off steeply after the first try. Among those who took the exam for the first time in 2017, 72% passed. That rate for repeat takers was 35%.

Paulina Bandy has spent the past 12 years coaching California bar exam repeaters, having passed the exam herself on her 14th try. Before her clients can delve into the nuts and bolts of their bar study, they must first regain their confidence and heal emotionally, she said.

"I speak with candidates at one of the lowest points in their lives," Bandy said. "Although I am not a psychologist, I can hear depression in their voices over the phone. I feel their sparks of anger. They share their desperation."

She said that many of these candidates are high achievers who have never felt the sting of failing before, which makes it difficult for them to cope with such loss of control.

"They feel stuck. They can't move forward and they can't stop," Bandy said.

After his first try at passing the test, Mark started driving for Uber to bring in some cash—his wife is a teacher—and what had started as a temporary thing was looking more like a longer-term gig.

Two months after learning he had failed the bar, a friend tipped him off about an open clerk position with a nearby state court trial judge. Mark landed the job, which entailed essentially running the courtroom—part bailiff, part administrative assistant to the judge. It wasn't a dream position, but he was grateful to have legal employment and leave Uber behind while he geared up to retake the bar in February.

He worked full time at the courthouse while prepping for the exam, which presented a new challenge. And he signed up for a different online bar prep provider—AdaptiBar—which he found to be a better fit for his learning style.

He felt better about his chances of passing on the second try and left the exam with more confidence than before. His wife stayed home on the day the scores were released so that they could go out and celebrate after learning that he had passed. Once again, Mark held his breath as he logged on to read the results.

He missed the cut by less than 2 points.

"It felt even more dejecting because, at this point, you've done it twice," Mark said. "A lot of people expected me to pass the second time. I was applying to jobs. It's just a second shot in the gut."

It took Mark about a week to resolve to take the bar exam a third time, after learning that he had failed on his second try. He forked over another \$700 registration fee and began developing a game plan.

Help arrived from some unexpected places. A family friend passed on the name of a bar exam tutor who came highly recommended, then insisted on paying for the tutoring, something cash-strapped Mark couldn't afford himself. He also returned to the AdaptiBar online prep course.

Mark's father and stepmother provided the family with enough money to allow him to quit his clerk job and study full-time in the run-up to the July 2018 exam. Accepting the help was difficult for Mark, but he was in no position to refuse anything that would put the bar exam in his rear-view mirror.

He began driving for Uber full time after the exam as he awaited the results. On the Friday of the September score release, his wife again stayed home, insisting they sit in a different spot to avoid bad memories when he logged in.

This time, it was the news they had been waiting for. He passed.

"It's funny in some ways," he said. "You work so hard on this freaking test, and then it's like, 'OK, what's next?' I enjoyed being able to finally say, 'I did it.' But then I had to turn my attention pretty quickly to finding a job."



As luck would have it, Mark caught a news item about several attorneys from a prominent Seattle firm peeling away to start a local office for a large out-of-town firm. He scanned the office website and found no mention of any associates. He cold-called the new office's managing partner and the pair clicked over a coffee meeting.

He has been working at the firm for about five months now. It's a contract position, but he's hopeful to transition to an associate title soon.

"One thing that I've told a lot of people who fail is 'feel what you feel,'" he said. "There is no way to describe that sort of pain and despondence and lowness that comes with failing the bar. But we're not defined by how we get knocked down. We're defined by how we get up."

## **Providing Hope**

As for Bologna, she returned to CUNY in December to speak with graduates who had failed the exam five months earlier, at the same lunch she attended the previous year. Only this time, she was dispensing the advice.

"I was so embarrassed to tell people at first," she said. "But after a while I came to the realization that I'm not less of a person. I'm still awesome, and this is just a test. It's not about how smart I am. It's about strategy. I tell people, 'When you take it again, don't be afraid to make some changes that might be scary.'"

While Bologna and Mark are now members of the bar, not everyone's story ends that way. The vast majority of bar takers pass the exam within two years of graduating law school, but a small percentage take longer than that or stop trying altogether, according to research from the National Conference of Bar Examiners. For them, the exam means career dreams delayed or dashed.

But Bandy's long struggle with the exam is evidence that perseverance—and specialized help—can pay off.

“It is important that repeaters realize it is about making adjustments and building on foundations already laid,” she said. “Law school and bar review were not a waste of time. It is doable. The bar exam is challenging, that’s what makes it so exciting and rewarding to accomplish.”

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