



New York's Exam: The Biggest Baddest Bar

[James Burnett]

An unblinking look at what it's like to sit for the world's toughest bar exam. Ready? You may begin.

It's 6 A.M., three hours before the start of the July 24, 2001, New York State bar exam at Manhattan's Jacob K. Javits Convention Center, and the first arrivals are pacing.

Andrew Gershon, a Hofstra law school alum, mills around a hallway above the still-locked exam rooms. He has decided he'd rather come here at this early hour than continue tossing and turning in his hotel room bed.

"You have the rest of your life going through your head," he says. "Sleep doesn't come easy." Jessica Greenberg, a University of Pennsylvania law grad, is Gershon's sole companion at the moment. She says she would have shown up even earlier had her father not suggested she attempt to get some more rest.

In the scheme of things, Gershon and Greenberg really aren't that early. In years past, jittery candidates have arrived at the Javits Center at 5 A.M. and waited outside for an hour before the security guards opened the doors. To soothe their nerves and kill some time, Gershon reads the New York Post. Greenberg listens to Kermit the Frog warble "The Rainbow Connection" through her headphones.

By 7:30, the corridor is thick with jumpy bar takers. Just down the hall from Gershon and Greenberg, Mary Devin clutches a string of rosary beads blessed by the pope. Her boyfriend, John Hewitt, sits next to her. Despite the soupy July weather, Hewitt has outfitted himself in a frayed gray sweatshirt. "He wore that same Duke sweatshirt to every exam

he took during law school," says Devin, who earned her JD from New York Law School. "He looks like a homeless person, but he thinks it retains knowledge. What can you do?"

Enter Amy Shuster. A 25-year-old NYU law grad, Shuster is confident she'll pass the bar, and she has reason to be. She was Phi Beta Kappa as an undergraduate at Johns Hopkins and an academic standout at NYU as well. But Shuster isn't just here to pass the test; it is her stated intention to remain cool, calm, and 100 percent collected in the process. "It's not healthy to be stressed, and it doesn't really help," she says.

A group of Shuster's former NYU classmates has gathered across the way. One woman looks like she might puke. A second appears ready to flat-out crack: "I cried four times yesterday! Four times!" she moans. Another pal of Shuster's is outwardly tranquil, but "he's taking medication that relaxes you-it slows your heart rate," Shuster says. "And he's wearing suntan lotion. He says the smell of the beach calms him."

To ensure that she didn't feel rushed, Shuster allowed almost two hours for the 20-minute cab ride from her apartment in Murray Hill. But now she's worried she may have arrived at the Javits Center a little too early. She does a few yoga stretches.

"You'd never think a test," she says, "could cause so much anxiety."

The bar exam, no matter where it is given,

is not a soothing experience. But no bar exam can match the nerve-fraying spectacle staged at the Javits Center each summer since 1988. Few states' tests are more demanding than New York's (California and Florida are the only serious challengers). The Empire State's bar candidates, for starters, are expected to master roughly five times as much material as their neighbors in New Jersey. The 12-hour-and-15-minute test is administered over two grueling days. On day one, which deals strictly with New York State law, candidates must write five essays, respond to 50 diabolically specific multiple-choice questions, and tackle the Multistate Performance Test, an exercise that asks them to incorporate a set of facts into a hypothetical memo or legal brief. Day two brings the Multistate Bar Examination and with it another 200 maddening multiple-choice queries. And because New York is home to some of the world's best and brightest lawyers, virtually all of today's 5,525 test takers will feel that the other 5,524 are somehow smarter and better prepared than they are.

Then there's the Javits Center. No other exam site in any state is as intimidating. The shining steel and smoked-glass complex, which occupies five city blocks along Eleventh Avenue on Manhattan's West Side, contains a cavernous 800,000 square feet of exhibition space. The brightly lit halls that serve as testing rooms stretch across more than five acres; they're typically used to stage conventions, but they'd be equally suited to housing jetliners.



Security is worthy of a presidential visit. An armored car, manned by armed guards, delivers the test packets early on the morning of day one. Nearly 300 proctors patrol the exam halls, and a 40-member security force guards both the entrances and the bathrooms, which are monitored to prevent candidates from sneaking crib sheets into the stalls. "We train our people on what to look for in potential cheaters," says logistics coordinator Armand Canestraro. "Have we been successful? Yes."

An ambulance is kept on standby, and though most medical emergencies have been routine (a pregnant woman going into labor, an elderly proctor having a high-blood-pressure attack), its presence doesn't exactly put one at ease. Mental health exigencies are another matter. Legend has it that a candidate once sprinted up and down the aisles sharing with her fellow test takers this essential bit of information: "I am a covenant, and I am running with the land."

In spite of all this, roughly 70 percent of those who sit for the New York bar each July manage to pass. The overwhelming majority spring for expensive prep courses and log countless hours of private study. Most successful candidates have solid law school GPAs. But Bob Cohen, an associate director with BAR/BRI, the most popular bar-review course, emphasizes that good grades don't guarantee exam success. "Some top students, because they are top students, think they know how to do the preparation," he says. "They disrespect the process, and they wind up flunking."

Those who fail the test must wait until February of the next year to try again. During the run-up to their second attempt, many will have to squeeze in their studying while also attempting to hold down or look for a job. Working lawyers have the added joy of sharing the news of their failure with their boss.

Shortly after 8:15, the candidates are allowed to enter their appointed exam rooms. As they funnel down the escalators that lead to Halls

1A, 1B, and 1C, the prevailing mood is one of woe: People in line at the DMV look happier.

Once inside their respective halls, most candidates head directly to their assigned seats. Others beeline for the bathrooms, which, like the rest of the floor, had been off-limits while the proctors placed the test packets on the candidates' tables.

A voice, Oz-like, booms from a concert-strength sound system. It belongs to Bryan Williams, a nattily dressed member of the New York State Board of Law Examiners who is speaking from a small office across from the central hall, out of the test takers' view.

"Make sure that your seat number matches your test number," The Voice commands.

Despite the warning, a wayward would-be attorney in Hall 1A plops down one row behind where he belongs. The resulting chain reaction temporarily displaces two dozen of his cohorts, who are apparently too preoccupied to realize that they, too, are in the wrong seats. Had a proctor not intervened, disaster might have ensued. The tests are scored blindly (candidates are identified only by seat number), so sitting in the wrong spot can result in receiving someone else's score.

Amy Shuster's seat is toward the front of Hall 1B. She is just settling into her chair when security guards lower the industrial-grade metal garage doors at 8:55. "I felt a big adrenaline rush," she says later. "I knew I was ready, and I wanted to just dive in."

Following what BAR/BRI describes as an "ideal" approach, Shuster began preparing for the test two months ago, just after Memorial Day. Her studying consisted of two phases. For the first six weeks, she spent from 9 A.M. to 1 P.M., Monday through Friday, in a BAR/BRI classroom. She then logged another six hours each day going over her notes on her own and answering practice questions. One day each weekend was reserved for downtime,

at least until the BAR/BRI course ended. After that, attempting to master the test material became a seven-day-a-week, eight-hour-a-day job. "There's comfort in knowing that the same steps have worked for so many people," Shuster says.

In deciding what to study, Shuster also stuck to the BAR/BRI game plan. The vast majority of her effort was devoted to the material tested on the Multistate Bar Exam: contracts, constitutional law, criminal law, evidence, property, and torts. Those topics would appear not only on the MBE but also on the New York portion of the test. Shuster spent weeks studying those subjects, and no more than 10 hours each on the 11 disciplines that could only come up, if they came up at all, during the New York-specific sections.

That's not to say Shuster toed the bar prep line completely. Rather than take her BAR/BRI course at the center closest to her apartment—the popular Times Square location, where a number of the 1,000 or so students lined up half an hour before class to scurry for front-row seats—she signed up for the relatively laid-back lessons at Manhattan's Fordham University law school. Whenever possible, she left Manhattan and decamped to her boyfriend's parents' house in the Hamptons, which allowed her to punctuate her study sessions with sea kayaking and long strolls on the beach. And right before entering the stretch run, she gave herself . . . a vacation. "I didn't study on the Fourth of July," she says, "and all of my friends were like, 'I can't believe you took the day off!'"

Shuster's comparatively mellow approach traced back to her second year at NYU, when the former state high-school debate champion from Guilford, Connecticut, resolved to become a sort of anti-McBeal. "I was so burnt out after the first year, I just didn't have the energy to be stressed anymore," she says. "I tried to make a transition to be more relaxed. After my first set of exams that semester, I found that I hadn't pushed myself so hard, yet



I had done just as well, if not better.”

At precisely 9 A.M., The Voice proclaims, “You may begin!” Shuster has decided that she will tackle the day-one essays in order, without looking ahead. “I worried that if I looked ahead, I might freak out,” she says. The first of the three essays she’ll need to face before lunch deals with a contract between two merchants, an issue she knows well. Nevertheless, it takes her a while to establish a rhythm, and her response eats up more time than the recommended 40 minutes. But she gets back on track during the next two essays—one on a felony murder, the other on domestic relations and professional responsibility. At 11 A.M.—right on schedule—she turns to the 50 multiple-choice questions that stand between her and the 12:15 break.

Many of the multiple-choice problems are dense riddles, and Shuster’s answers sometimes rely as much on hunches as they do on facts. She knows some conjecture is okay: Because points are not subtracted for incorrect answers, it makes sense to hazard a guess on every question. Besides, she knows that candidates can get up to half of the 50 multiple-choice questions on the New York portion wrong and still pass the bar.

Shortly after 11, a Columbia Law School alum and soon-to-be Cravath, Swaine & Moore associate arrives at the entrance to the Javits Center. Having mismarked his calendar, he thought the test started on July 25 (tomorrow), not July 24 (today), and he realized his mistake just this morning. He asks a representative of the Board of Law Examiners if he may begin taking the test during the afternoon session, but the rules state that candidates must arrive at the test center no later than 9:30. Request denied. Casualty number one.

The lunch break is called at 12:15, and Shuster and the other test takers stream out of the exam halls. Upstairs, the candidates organize themselves like high-schoolers at recess. There’s a clique of smokers, a group of flash-

card-wielding study freaks, and a few loners saying nothing and staring straight ahead. Shuster and a friend sit together and tuck into their lunches.

Though the Javits Center offers a few overpriced eateries, the majority of candidates bring their own sustenance. The Board of Law Examiners asks only that food be “quiet”; snacking is even permitted during the sessions, so long as one’s victuals do not snap, crackle, or pop. While most candidates use the break to refuel, there are those, like Andrew Gershon, who do not ingest a morsel, lest digestion dull their mental edge.

Just down the hall from Shuster, one of the loners, a burly, dark-haired guy, keeps his nose buried in his study aids straight through to 1:30. Then, scrambling into Hall 1B, he almost gives the ambulance crew something to do by failing to notice that the metal door is about to close on his head.

At least he makes it back inside: A guy who had been sitting next to Mary Devin does not return at all. “In the morning session, I noticed he was sort of staring off into the distance,” Devin reports. “I thought to myself, ‘Maybe this isn’t for him.’”

Opening her packet to start the afternoon session, Shuster flips to the 90-minute Multistate Performance Test. Fifteen other jurisdictions use the MPT, but this is the first time it has appeared on the New York exam.

Designed to measure actual lawyering skills—as opposed to legal arcana—the MPT is an attempt to counter the longstanding criticism that the bar is not an accurate method of evaluating the worthiness of would-be attorneys. Since the MPT counts for only 10 percent of the final grade, some candidates feel they have little to gain by studying for it. But Shuster has made certain she’s ready for it. “I see it as a good way to get points for minimal work,” she says.

Turning to the first of the afternoon essays, Shuster sees that Lady Luck is smiling on her. New York practice, the topic she most dreads, did not figure in the morning essays, and this afternoon’s first question is on torts. She handles it assuredly. Ditto for the next—and last—essay, which deals with wills.

Shuster completes the afternoon section a few minutes ahead of time. For a moment, she’s tempted to reread her answers, but then she reconsiders: “I was, like, no, I’ll just make myself upset if I see a mistake.”

For the day, Shuster gives herself a 9 out of 10 for knowing her stuff, and a 9 for staying calm. But as she walks home, another test taker, a stranger, approaches. Having overheard Shuster’s conversation with a reporter, the woman wants to know how Shuster handled a portion of the essay question that dealt with the evidentiary admissibility of a statement made by a dying man. “I can’t believe someone would stop a random person and ask them about the bar,” Shuster says. “What if I had said, ‘Oh my God, that wasn’t the answer—and if you didn’t get that right, you failed!’”

On Wednesday morning, jaws inside the Javits Center are visibly less clenched than they had been 24 hours earlier, and the lighter mood is reflected in the candidates’ sartorial choices. One man looks disco-ready in a faux snake-skin shirt. His female counterpart, a sort of Long Island version of Reese Witherspoon’s character in *Legally Blonde*, wears a see-through blouse over a plunging T-shirt. “I see these girls in little tube tops, and I’m like, ‘What?’” says Mary Devin. Her boyfriend, John Hewitt, is not only wearing the same lucky sweatshirt as the day before but the same khakis as well.

Shuster, feeling more confident, heads off for the exam 30 minutes later than she did on Tuesday. “I’ve already taken two full practice MBEs,” she says, referring to the dry runs she completed as part of her BAR/BRI course. “And I’ve done reasonably well.”



With its 200 multiple-choice questions, the six-hour MBE leaves little time for dawdling, so the key to managing it successfully is to maintain a steady stride. Shuster believes she has a strong grasp on the MBE subject matter, but she also knows that she can run into trouble if she falls behind the BAR/BRI-approved schedule. Averaging 1.8 minutes per question, she should be on number 17 at 9:30, number 35 at 10, and so on, until time is called at noon.

Because there is so little room for error, Shuster has ruled out the possibility of a mid-session bathroom break, as the round trip could take up to five minutes. Others appear to be mindful of this potential complication as well. Rumor has it that one man is wearing a diaper.

As *The Voice* kicks off the morning session, the candidates quickly discover that fatigue has become a factor: In Hall 1A, a woman falls asleep while trying to answer a question. Shuster, meanwhile, has gotten herself into a groove, and she's exceeding the minimum pace, in part by not dwelling on questions that stump her. Once again, she finishes early. And once again, she resists the urge to double back and second-guess herself.

Compared with Tuesday's lunch hour, Wednesday's is downright festive. Socializers far outnumber studiers, and plans for post-bar bacchanalia are the topic of more than one conversation. Shuster shuns talk of the test, but she does own up to the fact that the experience is wearing her down. "All those bubbles!" she says.

By 1:20, most candidates have returned to their seats, eager to get the ordeal over with. Once the afternoon session starts, however, many examinees begin to sputter. Shuster starts to flag as she reaches question 185. She has to read each query several times.

Late in the afternoon, someone knocks over a bottle, which shatters as it hits the concrete floor. Shuster, deep in a final run to the finish line, does not even look up.

At 4:30, 12 hours and 15 minute into the test, *The Voice* declares an end to the proceedings. Shuster rises to her feet and makes eye contact with a stranger standing nearby. The two break into smiles.

The security guards slowly raise the garage door to Hall 1B, and a few candidates duck through the opening as soon as it reaches waist height. Having served their sentence, they are not willing to wait a moment longer for freedom.

Once the door is all the way open, the candidates pour out en masse. They are greeted by small groups of well-wishers—friends, family members, and significant others. Promoters handing out flyers for parties at Manhattan bars and restaurants are there, too (why the World Wrestling Federation thinks exhausted would-be lawyers might want to frequent its Times Square establishment is anyone's guess).

Many of the test takers wear weary grins. Others can muster only yawns. At least one woman looks to be holding back tears. Mary Devin is visibly upset as well. "I thought I'd be so happy coming out of that test," she says. "But Mother of God, that afternoon section was terrible."

Many candidates, in fact, feel like they were ambushed by unduly tricky questions during the last half of the MBE. Shuster agrees that parts of day two have been tough. But as far as she can tell, she has passed the test—and without getting too stressed. "I'm proud of myself," she says. "I stayed positive, and I just kept going."

When Shuster is about halfway home, the sky, gray all day, gives way to a summer downpour. "I'll feel more excited when I

get the results," she says. (The news won't come for four months.) "You have to wait so long before you know how you did. You don't want to be too relieved, because for all you know, you could be taking the test again in February."

Then she adds, "You should put a big caveat in your story: Amy's big concern is having this article written about how confident she was, then she fails, and everyone makes fun of her."

"That," she says, "is one thing I'm stressed about."

Epilogue

Amy Shuster passed the bar. She is currently an associate at Sullivan & Cromwell. Andrew Gershon and Jessica Greenberg also passed. John Hewitt passed, but his girlfriend, Mary Devin, did not. The guy who showed up late and was turned away? He's scheduled to take the February test.

Editor's note: Amy Shuster agreed to use her real name in this story. The other test takers' names were changed.

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