

# More would-be lawyers opt to skip law school

By Don J. DeBenedictis

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The first thing San Francisco sole practitioner Patrick T. Nakao tells new clients is that he isn't a normal attorney.

"I didn't go to law school," he tells them. "I want you to know."

Nakao is one of a relative handful of lawyers admitted to practice in California through "reading the law," or what the State Bar calls its Law Office Study Program. Following roughly the same approach as John Marshall, Abraham Lincoln and Clarence Darrow, Nakao and others like him studied law on their own under the close supervision of a practicing lawyer or judge.

People who've done it say its extremely difficult and risky. It demands great dedication and unusual self-discipline.

On the other hand, it's very nearly free. Plus, many people who do it already have good jobs in law offices. Those are aspects of the approach that could make it more popular at a time of galloping law school tuition and graduate debt.

Santa Monica tort lawyer Michael P. Ehline, who has started a website explaining how to navigate the California program, said he gets a few emails every day asking how to become a lawyer without law school. "Interest is going through the roof" these days, he said.

The method has long had its supporters. "It's a fabulous program," Marilyn S. Skoglund said about the version in Vermont, which she completed in 1978. These days, she is an associate justice of the Vermont Supreme Court.

"I hope California always keeps the option," said Adam Nicolai, who studied law under two partners at Markun Zusman Freniere & Compton LLP in Pacific Palisades. Nicolai passed the bar exam on his first try in 2012 and now is a lawyer at the firm.

Not everyone views the law office study approach so favorably.

For one, Nakao doubts he would recommend it for others. "I think I got lucky," he said. "I think it would be a lot easier going to law school."

Erica Moeser, the CEO of the National Conference of Bar Examiners, calls law office study "a risky method of receiving admission."

"It's not entirely clear that candidates get exposed to a broad curriculum," she said. "It's ... wildly inconsistent in terms of learning value."

While some people do succeed, Moeser acknowledged, reading the law is generally not as effective as law school for most people. "The numbers tell you there's less chance of success."

In California, only 22 people who studied in a law office passed the bar exam from February 2002 through July 2013. That's the equivalent of one passer per each of the 22 exam admin-

istrations.

Besides California, seven other states allow some sort of law office study for admission. The programs in Maine, West Virginia and Wyoming appear to be virtually moribund, according to figures from the national conference.

But conference data show that in the same 11 years during which 22 law-office students passed the California bar exam, 31 people in New York, 30 in Vermont, 22 in Virginia and a relatively whopping 57 in Washington State passed their exams.

Nicolai's story provides a good example of how the California law office study program works. In 2003, while a student at Loyola Marymount University, he started working as a legal assistant at Markun Zusman, a 15-lawyer securities and business litigation firm with four offices around the country.

He'd known since he was a child that he wanted to become a lawyer. But he had children of his own. "I just thought that going to law school at night or dropping out of work, with a family that was not going to be viable," he said.

Once he finished college in 2006, he and partners Jeffrey K. Compton and David S. Markun began exploring the law office study program. By the end of the year, Nicolai had registered for it with the State Bar, with Compton as his official supervisor.

Over the next four years plus, he studied the subjects on the California bar exam one by one, each for about three to four months. He picked as his texts the books UCLA law students use, and he answered old bar exam essay questions as his tests.

He would meet regularly with Compton and sometimes Markun to discuss what he'd been reading, ask questions, explore ethical issues and so on. They also tied his studies into their ongoing cases when they could. Compton, a University of Michigan law graduate, would throw out some hypotheticals from time to time to give his pupil a small sense of the Socratic method, he said.

A signal event for them was the First Year Law Students' Exam, better known as the "Baby Bar." That's a mini-bar exam on contracts, torts and criminal law that everyone not attending an accredited law school must take.

When Nicolai passed the first time, "that was really confirmation that we were doing the right thing and that it was working," Compton said.

After three years more, Nicolai took a commercial bar review course and passed the general bar exam on his first attempt.

"As crazy as it sounds, I liked the process of getting ready for the bar and all the studying. ... It's a lot easier than the real world of practicing."

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# Passing the bar without a JD: not for the fainthearted

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ing law.”

More generally, the State Bar requires students following the law office program in California to spend a minimum of four years at it. They must study at least 18 hours a week, and their attorney mentors must spend five hours a week supervising. Every month, the student takes a written test on what he or she has studied, which the supervisor grades.

Every six months, the supervisor must send the tests to the State Bar along with a detailed list of the books and other material the student has read.

The bar does not evaluate program content or regrade exams, according to Gayle E. Murphy, the State Bar’s director of admission. “We’re confirming that they’re following the rules,” she said.

The registration fee is just \$40 plus \$30 for each twice-yearly report. Those fees may go up, Murphy said, because the bar has discovered it’s spending about \$24,000 overseeing the program currently, while bringing in only about \$5,000.

Like Nicolai, most students in the program do focus on the 13 bar exam subjects. “Hello. If I’m going to pass it, I’d better study for it,” explained Alice W. O’Sullivan, who was admitted in 1980. A workers’ compensation specialist in Oakland, the 73-year-old O’Sullivan at one time chaired the State Bar’s legal specialization committee. And these days, she is mentoring a law-office student of her own.

Many students also pick their texts from a law school’s reading list and bookstore.

But some don’t take quite the ordered approach to their education that Nicolai did.

“I just kind of randomly read different things,” Nakao said. “There was no set order.”

Yet he accumulated nine banker’s boxes of study materials, which he still consults occasionally.

Nakao did have the advantage of working for and studying under a general practitioner. That exposed him to a wide variety of fields except for criminal law.

Skoglund basically apprenticed with the Vermont attorney general’s office, where her

supervisors moved her among different units so she learned about criminal, civil, appellate, administrative and other areas.

Ehline, admitted in 2005, took a different route to learning the many bar exam topics: He switched supervising attorneys every year, rotating through four different kinds of practice, including the Los Angeles city attorney’s office.

Ehline is also out of the mainstream of do-it-yourselfers in that he doesn’t have a college degree. Yet he actually went to law school at night while reading the law during the day and gained admission before getting his law degree.

Finally, he got himself qualified as a “certified law student,” allowing him to appear in court with his supervisor. He said he second-chaired three jury trials while a student.

His unusual story illustrates an aspect of the law office study approach that many consider extremely important. “It’s a great resource to allow access to a legal education” for those who can’t go to law school, said Isabell Wong Flores, a Sacramento sole practitioner.

But it is not for the fainthearted, according to everyone interviewed for this story. “You can’t have moments of laziness and putting things off,” Nicolai said.

“It was one of the hardest things I’ve ever done in my life,” Flores said, who took the Baby Bar twice and the bar exam five times.

“If you set a goal and stick to it and believe in yourself, you can achieve it,” added Flores, who also writes, blogs and does motivational speaking.

Self-study is so hard that many people drop out fairly early on, bar data indicates. Although the State Bar doesn’t keep detailed statistics on the program — there are just too few participants, Murphy said — it counts 85 people as active in it at the moment.

Yet from 2007 through 2013, only 67 people in the program took the Baby Bar for the first time and only 29 passed the test at some point. That’s equivalent to a rough cumulative pass rate of only 44 percent.

On the other hand, for those who drop out, there’s not a lot of downside risk, noted Tommy



Alexander Drecun / Special to the Daily Journal

Adam Nicolai of Markun Zusman Freniere & Compton LLP passed the bar without law school.

M. Troncoso. “The only thing you’re losing is your time.”

Troncoso did pass the bar exam on his first attempt and is now a personal injury lawyer who’s taking over his retired mentor’s practice in Van Nuys. “I have no debt so I have the ability to form my own practice.”

And most people who struggle through all the way to the end pass the bar exam. During the 11 years from 2003 through 2013, some 29 read-the-law students took the general bar exam for the first time and 22 people passed the exam at some point. Comparing the two data points suggests that about three-fourths of those who take the bar exam eventually pass it.

About 92 or 93 percent of graduates of California ABA-accredited schools eventually pass the exam, according to a similar estimate and to figures from a pair of State Bar studies.

But the estimated 76 percent success rate for law-office students is well ahead of the roughly 61 percent of graduates from California State

Bar accredited law schools who pass bar exam or the 52 percent from unaccredited schools.

What that pass rate shows, according to proponents, is that those who can succeed at studying law on their own are not ordinary lawyers.

Compton said he discovered that Nicolai learned the law “at a pretty deep level” he didn’t anticipate from his one-time legal assistant. When they discuss work in the office, Nicolai frequently brings up a case or theory he remembers from his study days.

Nicolai said most people are impressed by what he accomplished. He said employers should be as well. “Maybe if the resume says you didn’t go to law school, that’s a keeper,” he said.

Nakao agreed. His path to a law license “ends up impressing people,” he said.

When he tells clients he’s not a normal lawyer, “no one has ever balked on me.”