

# The Best Money Can Buy: Spotting And Using Evidence Of Fake Degrees

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**What chance has the ignorant, uncultivated liar against the educated expert? What chance have I ... against a lawyer? — Mark Twain**

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**WE ALL WANT** to be Posner, but Matlock won more trials. Every episode ended with some poor guy getting handcuffed by a bailiff after confessing countless lies on the stand. The gallery cheered, Matlock said something folksy and they all lived happily ever after. Although his fictional trials found very little foundation in black letter law, Matlock routinely emphasized the most consistent theme of jury work: liars lose.

Litigators love liars. We love catching liars because they help our cases, hurt our opponents' cases, and give us a green light to pursue impeachment. This love for liars motivates us to search transcripts for subtle inconsistencies and outright falsities. But those searches become routine. Compare the police report to witness interviews. Check. Compare interrogatory responses to medical records. Check. Compare doctor's findings to deposition testimony. Check.

The problem with the beaten path, however, is that it makes us forget about other routes. In most tort cases, lawyers often spend so much time examining medical records that they gloss over a party's educational background. Thousands of people purchase and use fake degrees every day. Some of those people are bound to show up as my defendants or your plaintiffs. This article aims to help litigators spot those fake degrees and use that

underlying misrepresentation to attack a witness's credibility at trial.

**THE FAKE DEGREE** • I first experienced the rampant problem of fake degrees while handling the discovery phase of a large personal injury action. While spending yet another day reading through page upon page, I came across the plaintiff's engineering degree from a place called "All American University." For years, the plaintiff had been claiming this degree on resumes and job applications. I knew the diploma existed but never gave it another thought until the day I stared at an actual copy. There is no way of explaining what made me spend so much time staring at this simple document. Sure, the name "All American University" in itself is rather odd. It sounds more like a school from a Nancy Drew mystery than it does a real university.

Like any good citizen of the 21st Century, I immediately went to Google. Ignoring the site for American University in Washington, D.C., I focused my attention on the third or fourth hit which read: "All American University is legally registered in the United States. We issue distance learning degrees...." I clicked on the link and found what appeared to be an abandoned Web site. Yet the Web site's contents were quite telling.

Under "Frequently Asked Questions," I learned that All American University granted degrees to "applicants based on their work, life and military experience as well as classroom education." Despite this claim of classroom education, another entry noted that an applicant should receive his/her "degree within 7 days of receipt of [his/her] approved application and payment for [his/her] graduation package."

Recalling how many years I spent in classrooms before receiving high school, college, and law school degrees, the idea of someone receiving a college degree within seven days of applying sounded a little...*odd*. Perhaps even more telling, applicants

officially graduated on the day their applications were "accepted" (i.e., when the checks cleared).

I then knew that investigating the plaintiff's "degree" warranted more time. After a few hours using Google and other Internet tools, I came across a reference to All American University in a 2004 Wall Street Journal article by Daniel Golden titled, *Federal Workers Use Tax Dollars for Fake Degrees*. The article described an Internet-address dispute between American University and All American University. Apparently, American University was not happy to have its good name associated with All American University, when the latter simply sold fake degrees. According to case documents, All American University also "provided a phone number that employers could call to verify the credential."

Obviously, I considered the Wall Street Journal article a significant find. First, the article identified the plaintiff's alma mater as nothing more than a fraud. Second, it first introduced me to a term I would get to know well over the coming months: "diploma mills."

**THE F.B.I. AGENT** • If the plaintiff obtained his engineering degree from a so-called diploma mill, I needed to know what that meant. The name is quite telling on its face, but I wanted to know if there were really enough diploma mills to warrant their own sleazy-sounding term. For my own benefit and in thinking about how to introduce this information to a jury, I began searching for an expert on diploma mills (f.y.i., no expert witness database that I know of has a "diploma mills" category).

Again being an inhabitant of the Information Age, I went to the Internet. My time was spent using another Web giant: Amazon. I wanted to know if any books had been written on diploma mills. Within a few minutes of searching, I came across a book by Allen Ezell and Dr. John Bear titled, *Degree Mills: The Billion-dollar Industry That Has Sold Over A Million Fake Diplomas*.

I soon learned that Allen Ezell was a former F.B.I. agent who retired in 1991 after 31 years of service. He was one of those lifetime law enforcement types who actually carried his father's badge while in the Bureau and chose to spend his retirement as a Vice President and Senior Investigative Consultant for Wells Fargo Bank.

Ezell's experience with diploma mills began in 1980 after he formed an F.B.I. task force called Operation DIPSCAM (Diploma Scam). He led that task force for the next 11 years and helped prosecute more than 40 fraudulent schools. After co-authoring *Degree Mills* with Dr. Bear in 2005, Ezell authored two more books on the subject. In 2004, he even testified during congressional hearings on diploma mills held by the House of Representatives Subcommittee on 21st Century Competitiveness of the Committee on Education and the Workforce.

**THE UNKNOWN EPIDEMIC** • As you can imagine, I felt fairly certain that Ezell's background and experience qualified him as an expert in the field of diploma mills and fake degrees. But I was still not sure that the term "diploma mills" should be mentioned during trial. After attempting to step back from my own initial research, I had to admit that the whole thing sounded more like an X-Files conspiracy theory than something you might see on Perry Mason.

Conversations with Ezell, however, quickly changed my mind. "Keep in mind that diploma mills are born and die daily," Ezell said. "We can only honestly say there are thousands of diploma mills operating all over the world. It could be 100,000 or it could be 500,000. No one can say with certainty. But in 1986 it was already a 500 million-dollar-a-year business, and no one doubts that it easily hits the billion dollar mark in this age of the Internet. In this country, you would probably be safe in saying there are at least 500,000 fake degrees being used on an almost daily basis."

Now I knew that we not only had something to talk about, but also something people would consider. Scottish physicist Lord Kelvin probably said it best, "When you can measure what you are speaking about, and express it in numbers, you know something about it." We had a former F.B.I. Agent who could claim 500,000 fake degrees and discuss a billion-dollar industry. And I was betting that might get someone's attention.

**THE PROOF PROBLEM** • Obviously, Ezell could testify under oath that diploma mills existed. He helped put a lot of their "employees" in jail. He could also testify — with the help of Congress — that this was a confirmed and growing problem. But could he prove that the plaintiff's degree from All American University was a fake?

When trying to determine whether a school is a fake, Ezell concentrates on four common characteristics of most diploma mills:

- No accreditation or accreditation through an unrecognized accrediting entity (these unrecognized accrediting agencies often share the same "founders" as the schools they allegedly accredit);
- Little to no academic work (usually offer credit for work/life experience);
- Flat rate pricing for degrees rather than years, semesters, courses, or hours;
- High rate of speed for both the application review and document delivery process.

"I have no problem testifying that All American University was a scam," Ezell said after completing his investigation. "For at least a four month period in 2003 (February through May), it sold vanity academic credentials for a flat rate of \$119.00 - \$349.00. ... All American was never licensed to operate as a post-secondary institution," he continued. "Yet it awarded degrees based not on course work, but on work, life and military experience."

These so-called students received their degrees within seven days of applying.”

In one week’s time, that meant the plaintiff applied for and received a B.S. in Mechanical Engineering. The more we learned about All American University, the more it seemed that the plaintiff was the one with a proof problem.

**THE RELEVANCY DILEMMA** • As all litigators know, however, proof is often less troublesome than relevancy. Even though I knew the plaintiff lied about receiving a college degree, I also knew that his lie meant nothing unless we could get it before the jury.

The key was his total disability claim. The plaintiff claimed that he could never work again due to a questionable “accident” at our client’s place of business. Those types of total disability claims often require expert testimony on economic loss. This comes in the form of a trained economist who takes a plaintiff’s background, education, job history, alleged injury, and other factors into account to come up with an economic loss analysis. And economic losses spread over a lifetime easily push into the six- to seven-figure range, making them both relevant and worthwhile to any plaintiff’s attorney.

Knowing the plaintiff already obtained an economic loss analysis and would produce it through expert testimony at trial, this seemed like an obvious doorway for our relevancy argument. Any economic loss analysis will contain information about a plaintiff’s education as that can help/hurt job prospects. More importantly, the plaintiff’s own expert asked about and relied upon the plaintiff’s

fake degree when computing approximately seven figures in economic losses.

But what happens in smaller cases? What about cases in which a plaintiff only seeks medical and pain/suffering damages? With lost wages and economic loss out of the picture, relevancy becomes a steeper hill. Quite frankly, it’s probably a hill you cannot climb.

Instead of wasting time losing the relevancy battle, however, concentrate on establishing an effective impeachment. People typically ask for a plaintiff’s educational background in each set of interrogatories. If plaintiffs reference fake degrees when responding to those interrogatories, impeach them. It might not technically qualify as evidence, but the jury hears a lie all the same.

**THE BOTTOM LINE** • In the end, we produced so much evidence about the fake degree and diploma mill that the plaintiff had to stipulate that he never graduated college. Most importantly for our case, however, the plaintiff had to stipulate that he lied. He lied to me. He lied to previous employers. He lied to his own expert. And who was to say that he wouldn’t lie to the jury?

Whether or not we want to admit it, trial outcomes have very little to do with lawyer performances. They come down to one simple question: Who does the jury believe? Jurors, like most of us, hate liars. They want to punish liars, and that punishment certainly does not include a large verdict. This article aimed to identify thousands of liars out there peddling fake degrees. It’s your job to catch them. Who knows, you might even pull a Matlock moment out of the deal.

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