



F27 Lawyer-Scientist: Issues of Competency, Validation, and Ethics

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After attending this presentation, attendees will understand the competency, validation, and ethical problems inherent in the term “Lawyer-Scientist.”

The presentation will impact the forensic science community by discussing improprieties of using the self-proclaimed moniker “Lawyer-Scientist.”

The Ozian Option: “I can’t give brains, but I can give you a diploma” is a similar scenario to the “Lawyer-Scientist” situation.

The practice of law is a business in a very competitive market. Attorneys attempt to distinguish themselves through marketing their accomplishments or specialization. Any licensed attorney can purchase their promotional “Lawyer-Scientist” moniker by completing three separate one-week courses sponsored by the American Chemical Society’s (ACS’s) Law Division. No science background is required. The fee-based introductory forensic gas chromatography course is predominantly for attorneys who represent clients charged with drug- and alcohol-related traffic offenses. Purported accreditation and certification is through participation in a private laboratory, not a governmental licensing authority, academic institution of higher learning, or attorney state licensing authority. Continuing education and training are not offered or required.

Upon completion of the course, the attorney may possess something akin to the initial knowledge of a technician; however, the scientist, generally conducts research and experiments, designs and creates instrumentation and applied techniques, and publishes and advances knowledge in their field.

Programs and courses are offered for attorneys to provide them with intense training for a better understanding of the scientific methods and analyses in their field. Attendees are susceptible to the false impression that investing a few weeks of time qualifies them to make refined and complicated scientific judgments on matters involving areas of forensic science.¹ Knowledge of gas chromatography cannot be acquired through a short course. Completion of the ACS short course does not transform the attorney into a scientist.

ACS sanctioned the establishment of “The ACS Forensic Lawyer-Scientist Designation as recognized by the Chemistry and Law (ACS-CHAL) Division of the ACS.”² The carefully worded designation was shortened to “The ACS-CHAL Forensic Lawyer-Scientist Designation” or just “ACS-CHAL Forensic Lawyer-Scientist.”; however, attorneys simply use “Lawyer-Scientist” in their promotional advertising.² Both terms are readily subject to misrepresentation and misinterpretation. The program was apparently approved by the ACS without realizing the ulterior marketing motives nor being properly apprised of legal, moral, and ethical implications. Additional course information is at the “Lawyer-Scientist | ACS Hands-On Forensic Chromatography Course” website.²

The courses are conducted by Axion Laboratories, Inc., which is a private commercial business in Chicago, IL. The courses are not certified by any agency or authority.³ Certification establishes trust in the protocols, quality control, training, instructor qualifications, accreditation, certification examinations, and independent review.³

Is the “Lawyer-Scientist” engaging in intellectual dishonesty, deceptive self-promotion, or unregulated ethics for a competitive financial position? An attorney’s integrity is paramount. Attorneys are bound by legal standards

and a code of ethics to foster integrity, honesty, competency, and public trust. Every state has strict codes of ethics for lawyers derived from the American Bar Association (ABA) Model Code of Professional Responsibility.⁴ Under Canon 1, DR 1-102, a lawyer “shall not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation.”⁴ Canon 2, EC 2-9, lists examples of deceptive advertising, including: “misstatements of fact, suggestions that the ingenuity or prior record of a lawyer rather than the justice of the claim are the principal factors likely to determine the result, inclusion of information irrelevant to selecting a lawyer, and representations concerning the quality of service which cannot be measured or verified.”⁴ DR 2-101 states “a lawyer shall not use any false, fraudulent, misleading, deceptive, self-laudatory, or unfair statement or claim.”⁴ Under Canon 9, “a lawyer should avoid even the appearance of professional impropriety.”⁴

The term “Lawyer-Scientist” is arguably misleading under DR 1-102. Promotional use of “Lawyer-Scientist” is probably deceptive under EC 2-9, and might well violate DR 2-101. Attorneys advertising themselves as “Lawyer-Scientist” invite professional sanctions.

The ACS course provides useful training in familiarity with technical terms and procedures in gas chromatography. Unfortunately, it is inappropriately used as a marketing tool to create misplaced client reliance on questionable trustworthiness and qualifications of the attorney. “Lawyer-Scientist” incorrectly insinuates scientific competence that is most probably misleading. Professional oversight and great scrutiny should be used. There are no degrees of honesty.

Reference(s):

1. Haack, Susan. *Evidence Matters: Science, Proof, and Truth In The Law*. Cambridge University Press, 2014.
2. Lawyer-Scientist | ACS Hands-On Forensic Chromatography Course, <http://www.forensicchromatography.com/lawyer-scientist/>, last visited August 1, 2016.
3. Axion Laboratories, Inc. website, <http://axionlabs.com>, last visited August 1, 2016; The importance of validation, See, Haber L., Haber R.N., 2009. *Challenges to Fingerprints*. Lawyers & Judges Publishing Company.
4. American Bar Association, 1983. *Model Rules of Professional Responsibility 2010*. American Bar Association.

Lawyer-Scientist, Scientific Competence, Professional Responsibility