

Cambridge University Press

978-0-521-70770-1 - Witness Testimony Evidence: Argumentation, Artificial Intelligence, and Law

Douglas Walton

Index

[More information](#)

Index

- abduction. *See* inference to the best explanation
- Abelson, R., 105–107
- acceptance, 96, 116, 189
 - general, 264
 - model, 17
- action, 115–116
- ad hominem* argument, 241, 274
 - abusive, 22
 - bias type, 22, 23, 186, 220
 - circumstantial, 22, 186, 214, 220, 337
 - direct, 186, 219
 - impeachment function, 220, 333
 - relevance of, 276
 - relevant in legal argumentation, 274
- Adams, Frederick, 201
- admissibility, 24, 173, 265, 291, 334
 - versus relevance, 271
- adversarial system, 232, 254
 - excesses, 281
 - framework, 255
 - negative route, 140
 - problems with, 139
 - weakness in, 281
- advocacy, 225, 326
- ADVOKATE (software system), 49, 50, 52, 54–55
- affidavit example, 53
- agent
 - characteristics, 42, 183
 - client, 203
 - credibility of, 42
 - described, 42, 115
 - evolution of, 184
 - goal directed, 44
 - properties of, 44
 - reliability of, 42
 - server, 203
 - veracity, 171
- agreement, 233
- aims, strategic, 261
- Alexy, Robert, 146, 151
 - rules of general practical discourse, 146
- Allen, Ronald J., 95
- American law, adversarial system, 41, 49
- American school of pragmatism, 63
- anchoring, 109–111, 113, 123
 - anchored narratives, 119–120, 123, 125, 136, 207–209, 337
- Anderson, Barrie, 25–26
- Anderson, Dawn, 25–26
- Anderson, Terence, 31, 49, 89
- Anglo-American law, 161, 186, 261, 333
 - adversarial, 140, 141, 194, 207, 224, 233, 279
 - advocacy, 253, 284
 - cross-examination in, 237, 253
 - evidence law, 23, 274
 - examining council in, 194
 - fair trials in, 246
 - irrelevance in, 174
 - loaded questions, 236
 - opposing counsel, 247
 - persuasion dialogue in, 245, 286
 - precedents in, 222
 - problem with, 280
 - questioning style in, 138, 143
 - single witness testimony, 35
- appeal to emotion, 113

Cambridge University Press

978-0-521-70770-1 - Witness Testimony Evidence: Argumentation, Artificial Intelligence, and Law

Douglas Walton

Index

[More information](#)

354

Index

- appeal to expert opinion, 264
 - argumentation scheme for, 40
 - critical questions for, 42
 - defeasible nature of, 41
- appeal to expert witness testimony,
 - argumentation scheme for, 52
 - critical questions for, 52
- appeal to testimony
 - validity of, 33
 - weakness of, 141
- appeal to witness testimony, 51, 75. *See also*
 - argument from witness testimony;
 - argument from the position to know
 analysis of, 20
 - argumentation scheme for, 58, 98, 218, 272
 attack on, 59
 - critical questions for, 48, 51, 59
 nature of, 32, 43
 - phases of, 48
 - probative weight, 13, 273
 - questioning of, 28
 - rebutted, 66
 - requirements for, 28
 - strength of, 18
 - testing, 51
- Archibald, James K., 222
- ArguMed, application of argumentation
 - schemes, 304–305
- argument
 - assumptions in, 19
 - characteristics of, 19
 - convergent, 74, 75, 82, 100, 299, 301
 - described, 80, 169
 - defeasible, 19
 - function of, 32
 - described, 17, 154
 - divergent, 74
 - exetastic, 214–215
 - evaluation, 41
 - importance of initial statement, 44
 - goal of, 19
 - inductive, 30, 66
 - linked, 74, 80–82, 99, 300
 - backward reasoning, 100
 - described, 169
 - peirastic, 214
 - plausible, 62, 70–71
 - presumptive, defeasible, 102
 - serial, 74
 - single, 74
- argument diagram 73–75, 305, 337. *See also*
 - directed graph
 - problems with, 78–79
- argument from appearance,
 - argumentation scheme for, 53–54
 - critical questions for, 54
- argument from expert opinion
 - argumentation scheme for, 309
 - diagram for, 305
- argument from memory, 54, 57
 - argumentation scheme for, 54
 - critical questions for, 54–55
- argument from ignorance, 107, 228
- argument from memory
 - argumentation scheme for, 54
 - critical questions for, 54
- argument from personal attack, 59. *See also*
 - ad hominem* argument
- argument from the position to know. *See also*
 - appeal to witness testimony; argument from witness testimony
 abductive form of, 39
 - argumentation scheme for, 37
 - assumptions of, 44
 - critical questions, 38
 - probative weight in, 38
 - variants of, 39
- argument from testimony, 54–55, 58
- argument from witness testimony. *See also*
 - appeal to witness testimony
 argumentation scheme for, 51, 60, 87, 130, 297, 302–303, 312
 - critical questions for, 60, 312–313
 - scheme for, 45
 - undercut, 54
- argument tree, 73
- argumentation
 - chained, 282–283
 - evaluating, 41
 - formalized systems, 303–304
 - legal
 - advocacy in, 251–252
 - paradigm case of, 163
 - stages of, 193
 - deliberation, 193
- argumentation schemes, 61, 88, 335–336
 - use of, 5, 81
- argumentum ad hominem*
 - abusive, described, 22
 - bias, 23 described, 22
 - circumstantial, described, 22

Cambridge University Press

978-0-521-70770-1 - Witness Testimony Evidence: Argumentation, Artificial Intelligence, and Law

Douglas Walton

Index

[More information](#)

- Aristotle
 concept of *endoxon*, 212
 practical reasoning, 115
 syllogistic, 96
 types of dialogue, 211–212
 arson example, 77–79
 key list for, 78
 artificial intelligence (AI)
 computational dialectic, 7, 151
 defeasible reasoning in, 148
 expert systems in, 265
 information-seeking, 204
 negotiation dialogue, 161
 software critiquing systems, 266
 assault example, 74–76, 80
 diagram for, 76
 key list for, 75
 assumptions
 based on best explanations, 133
 missing, 127, 136
 needed, 92, 137
 testing, 71
 unstated, 137
 unused, 137
Araucaria (software system), 75–77, 87–88,
 102
 missing premise, 91–92
 modeling legal argumentation, 76,
 297
 Armstrong, Ken, 125
 assertion, provisoed, 165
 attack, adversarial, 145
 attorney
 adversarial, 252
 advocate, 140, 232, 252, 284, 331
 bias of, 141
 crowd-pleasing appeals, 287
 goal of, 331
 partisan, 229
 rhetorical skills of, 3–4
 strategy of, 251
 viewpoint of, 250
 Atkinson, Katie, 116
 Audi, Robert, 115
 backfire, 59, 140, 258, 259
 backing, 18, 20
 Bank, Steven C., 268
 Barth, Else M., 147, 153, 161
 basic corroboration case, 34
 battle of the experts, 264
 Bayesian approach, 33, 93
 belief, 13, 184
 acceptance implication of, 17
 described, 14, 170, 293
 dogmatic, 210
 non-transferable, 116
 persona of, 166
 belief-desire-intention model (BDI),
 described, 116, 170, 293–294
 Bench-Capon, Trevor, 19, 116, 146, 212, 215,
 296
 benevolence, 183, 185
 Bentham, Jeremy, 67
 theory of probability, 67
 Beth-like tableaux system, 153
 bias, 126, 195, 289, 310–312
 alleged, 78–79, 229
 attorney, 141
 examiner, 195, 262
 expert, 229
 indicators of, 59
 judgment, 217
 question, 60, 314
 psychological, 26
 witness, 59, 126, 219, 263
 bloody knife case, 65–66, 89–90
 Bob's sweater example, 200, 206
 boxer example, 202
 Bratman, Michael, 116
 Bromby, Michael C., 49
 burden of production, 188
 burden of proof, 44
 levels of, 187
 meanings of, 188
 setting, 279
 shifting, 13, 61
 tilting, 284
 car sale contract case, 129
 Carneades (AI system), 306–308
 antecedents, 314
 defined, 307, 313
 argument diagram, 309–311
 corroboration in, 314–315
 critical question modeled, 307–308,
 311
 exceptions, 314
 defined, 307, 313
 identifier, 307
 issue, 306
 Peter shot George case, 315
 position, 306
 premises in, 308

- Carneades (AI system) (*cont.*)
 presumptions, 314
 defined, 307, 313
- Carneades, (philosopher), 63
 criteria of plausibility, 71
 snake and rope example, 71
 system of, 297
- cases, hard, 147
- Castelfranchi, Cristiano, 184
- casuistry, 68, 71, 274
- causality, 264
- Cawsey, Alison, 124
- character
 attack, 22
 inadmissibility of, 23
 qualities of, 182
- Cicero, Marcus Tullius, plausibility, 68
- civil law, 261
- claim
 implausibility of, 144–145
 wording, 49
- clarity, 112
- Clarke, David S., Jr., 115
- Client-Server dialogue, 203–204
- closure, 32
 epistemic, 40
- Cody, C. A. J., six requirements of formal
 testimony, 16–17
- Cohen, David
 cross-examination, 226
 material conditional, 46
- coherence,
 described, 112
- Collingwood, Robin G., 124
 idea of re-enactment, 118–119
 question-answer theory, 124
- collusion, 58, 120
- commitment
 dark side, 215
 implicit, 162
 inconsistent, 167, 215
 resolution of, 267
 light side, 215
 public aspect of, 170
 retracting, 161, 167, 293
 rules, 170
 set, 166
 described, 166
 insertion, 164
- common law trial, 155–156
- competence, 16, 50, 60, 199, 214
 factors, 50
- computational dialectics, 8
 described, 151
- concession, 253
- conclusion
 defined, 17
 by implicature, 49
 implicit, 122
 by inference, 290
 plausible, 107
- conditional, 45,
 assumed, 127
 material, 97
- conditional entailment, 165
- conjecture, 182
- consistency, 42, 166
 critical questions for, 56
 factual, 312, 313
 internal, 67, 240, 313–314
 logical, 112, 121–122, 125, 168
 maintained, 7
 test for, 56, 240
 value up, 58
- contentious arguments, described, 211
- contradictions, 215
- convergence, 83
- conversational policy, 171
 collaborative, 181
- conversational postulate, 202, 338
- Copi, Irving M., 136–137
 material conditional, 46
- Corax, 69
- correspondence, 112
- corroboration, 5, 33, 82, 297
 described, 83, 120
 increasing probative value, 33
 negative, 122
 Peter shot George case, 297–298
 positive, 122
 theories of, 35
 of witness testimony, 120
- courtroom
 turn-taking procedure in, 224
- credibility, 182
 assessing, 49
 described, 42
 dialectical testing of, 221
 function, 60, 219
 impeached, 182, 220
 of testimonial assertion, 49
 tests for, 112
 undermined, 23, 135
- credibility corroboration, 83, 86, 88

- credulity, 14
- criminal trial, 111, 175, 220, 261, 272, 280, 315
- critical discussion, 132
 - purpose of, 282
 - rules for, 177, 292
 - stages of, 148, 176–177
 - structure of, 178
 - successful, 177
- critical questions, 42, 336
 - described purpose, 72
 - lacking answers, 171
 - managing, 50
 - open, 113
 - subquestions, 269
 - trustworthiness, 52, 314
 - witness observation, 50
- critiquing, 266
 - process, 217–218
- Crombag, Hans F. M., 56–57, 106–107, 109, 111–112, 233
- cross-examination, 66
 - abuse of, 318
 - blended argument, 224
 - define, 224
 - laying a foundation in, 225
 - leading questions in, 262
 - negative aspect of, 249
 - objectives in, 226
 - peirastic nature of, 290
 - phases in, 252–253
 - purpose of, 231
 - question asking in, 253
 - sequence of questions, 226
 - strategy in, 226
 - stress of, 141
 - tactics of, 227
 - undermining function of, 112
- Crump, David, 141–143, 276
- cumulativeness, property of, 167
- Daubert v. Merrell Dow Pharmaceuticals, 232, 265, 269, 278
- Davies, Leonard E., 253
- debate, legislative, 248
- defeasibility, importance of, 21, 44
- defeaters, 48, 58, 130, 304–305, 307–308. *See also* rebuttals; undercutters
 - described, 29
 - types of, 21n4
 - undercutting, 53
- defeating values, 49
- DefLog, formal system of defeasible reasoning, 305
- deliberation, 196, 217
 - electronic, 117
 - intelligent, 235
- dialectical arguments, described, 21, 211
- dialectical graphs, 73
- dialectical shift
 - to a critical discussion, 132
 - demarking dialogues, 241
 - to an information-seeking dialogue, 162, 269
 - to a negotiation dialogue, 235
 - to a persuasion dialogue, 269
- illicit, 162
- unilateral, 162
- dialogue. *See also* individual dialogue types
 - components of, 171–172
 - examination
 - aims in, 195
 - exetastic dialogue, 239
 - goal of, 242
 - fundamental notions of, 152
 - levels of, 118
 - nested, 275
 - peirastic dialogue, 125, 239
 - goal of, 241
 - questions in, 177
 - rules of, 242
 - persuasion,
 - characteristics of, 175
 - components of, 160
 - retraction of commitments, 167
 - rules of, 168
 - Platonic, 167, 195, 211
 - profile of, 179–180, 320
 - rules for, 171
- didactic arguments, defined, 211
- digraph, 102–103
- directed graph, 67, 73–74, 102, 306, 309
- dispute, 154, 155
- Doutre, Sylvie, 212, 215
- Dray, William, historical explanation, 118–119
- Dunne, Paul E., 212, 215
- Dutch law. *See also* European continental judicial system
 - civil law, 261
 - Supreme Court case, 189
- eikotic* argument, 68
 - balance of considerations, 69–70

Cambridge University Press

978-0-521-70770-1 - Witness Testimony Evidence: Argumentation, Artificial Intelligence, and Law

Douglas Walton

Index

[More information](#)

358

Index

- elucidation, 214
- embedding, 198, 223, 235, 245
 - in a persuasion dialogue, 252, 284
- empathy, 118–120
- English common law, 155
- enthymeme, 136–137
 - assumption in, 134
 - described, 133
 - problem of, 91, 137
- eristic drift, 281
- Erlangen School, 151
- European continental justice system, 279–281
 - examination in, 200–201
 - inquisitorial, 2–7, 163, 200–201
 - judge's role in, 200, 253
- evidence
 - ballistics, 85
 - body of, 131
 - character, 288
 - collecting, 233
 - concealed, 258
 - conjectural, 28
 - corroborative, 34
 - analyze, 300
 - argumentation scheme for, 301–302
 - value of, 36–37
 - drawing conclusions from, 4
 - evaluation, 102–104, 141
 - expert scientific, 220–221
- Federal Rules of (FRE), 17, 41, 63, 173–174, 229, 276, 288, 332
 - definitions in, 73, 272
 - described, 271
 - objections, 73
 - relevance, 173, 271, 332
 - Rule 104, 272
 - Rule 401–404, 23, 173, 260, 271–274
 - Rule 602–611, 23, 48–49, 238, 244, 262–263, 319, 329
 - Rule 702, 265
- hard, 69, 138, 220
- historical, 191
- legal, defined, 17
- nontestimonial, 240
- physical, 33
- probative weight of, 66, 173
- relevant, 248, 288
- rules of, 223, 231
 - artificial, 277
 - exclusionary, 277
 - problem with 277
- ruling on, 276
- strength of, 85
- suppression, 126, 287
- testimonial
 - distinctive factors of, 49
 - fallibility of, 35
- evidential support, 82
- examination. *See also* cross-examination
 - adversarial techniques, 287
 - defined, 225
 - degeneration of, 238
 - peirastic theory of, 230, 322
- examination dialogue, 210, 255
 - described, 211, 212–213
 - form of, 210
 - legal examination, 239
 - peirastic level, 240
 - parties in, 228
 - peirastic model of, 11, 331–332
 - steps in method, 335–338
 - rules of, 242
- exegetical reconstruction, 213
- experts, contradiction, 267
- expert opinion testimony, fallibility of, 66
- explanations, 118
 - conflicting, 128
 - historical, 118–120
- fabrication, 27
- fact, 51
- factum probandum*, 63
- Falcone, Rino, 184
- fallacy, informal, 186
- fallacy of double counting, 34–36, 299–300,
 - solved, 316
- fallacy of question asking, 263
- fallacy of many questions, 324, 326
- Farley, Arthur M., 73, 187
- Faulkner, 14
- FBI dialogue, 276–277
- Feteris, Eveline, 261
 - critical discussion, 148–149
- Fine, Ralph Adam, 134–135
- fingerprints on the knife dialogue, 154
 - analysed, 127
 - defeasible, 164
 - rebuttal in, 128
- Fortune, W. H., 318
- foundationalism, 167
- Frank, Jerome, 139
- Frankel, Marvin E., 289, 291
- Franklin, Stan, 183

Cambridge University Press

978-0-521-70770-1 - Witness Testimony Evidence: Argumentation, Artificial Intelligence, and Law

Douglas Walton

Index

[More information](#)

Index

359

- Freeman, Kathleen, 73, 187
 Friedman, Richard D., 278, 289
 Frye rule, 41, 232, 264–265
- Gagarin, Michael, 70
 generalization, 64, 97, 137
 absolute universal, 29, 45
 argument basis, 19
 belief, 32
 case-specific, 31
 defeasible, 20, 30, 32, 46, 48, 53, 64, 88, 97
 described, 45
 experience-based, 32
 general knowledge, 31
 inductive, 30
 misleading, 137
 plausible, 88
 problems in, 89
 proposition, 64
 scientific, 31
 undercut, 58
 universal, 29, 97
 generic statement, 30
 goal
 fulfilling, 175
 means to carry out, 133
 premise, 115
- Gordon, Thomas, 147, 151, 165
 pleadings game, 164, 257
- Graesser, Art, 183
- Graham, Michael H., 229
- Grice, J. Paul
 collaborative conversation, 185
 maxims of polite communication, 171
- Gricean implicature, 92, 106, 134, 228, 263
- Grootendorst, Rob
 on critical discussion, 176
 dialogue model of argumentation, 148
- Guthrie, W. K. C., 212, 213–214
- Haack, Susan, scientific testimony, 41
- Hage, Jaap C., 147
- Hall, Maria Jean J., 49
- Hamblin, Charles, 157, 212
 commitment set, 166
 concept of dialogue, 152
 construction of mathematical models, 151
 formal analysis of dialogue, 159
 game of dialogue, 170
- harassment, 320
- Hastie, Reid, 72, 128–129
 story model, 108–109, 114, 128
- Hathaway, George H., 319
- Hauser, Marc D., 201–202
- hearsay, 13, 223, 282, 291
 defined, 73
 doctrine, 222
 forbidden, 49
- Herman, Russ, 223
- Hintikka, Jaakko, 160
- Hintikka, Merrill B., 160
- Hitchcock, David, 115
- homicide case, 90
 implicit premises, 90
 key list for paint example, 90
- Horty, John, 46
- ignoratio elenchi*, 259
- impeachment, 267
- implausibility, 59
- incompleteness, strategy of, 228–229
- inconsistencies, 111
 apparent, 239, 267
 resolution of, 169
- incriminating, 258
- inference
 chaining, 66
 connected, 65
 inductive, 65
 monotonic, 46
 plausible, 92, 133, 141
 practical, critical questions for, 115
 warrant of, 18
 witness reliability, 49
- inference 1–3, 81–82
- inference to the best explanation, 40, 62, 65
- inferential link, 4
- information, 289
 communicative component, 202
 control the flow, 223
 defined, 201, 209
 extracting, 237
 false, 249
 positivistic view of, 200–201, 206, 208
 quantitatively measured, 201, 202
 relevant, 283
 reliability of, 140, 205
 useful, 205
- information-seeking dialogue, 132. *See also*
 examination dialogue; interview
 dialogue
 ambiguity in, 196
 assumptions in, 206
 dark-side of, 238

- information-seeking dialogue (*cont.*)
 - goal of, 198–199, 283
 - joined, 283
 - negative aspect of, 249
 - question-reply, 197–198
 - rules for, 291
 - simple, 195–196
 - stages of, 198
 - testing function of, 144
- informer recants, convict freed case, 26
- ingredients, 63–65, 103
- initial statement, 20
- innuendo, 49, 113, 124, 134, 318
 - unsubstantiated, 22
- inquiry, 167
 - retraction in, 167
 - scientific, 41
- Inquisition, 201
- interview, 196
 - employment, 197
 - goal of, 197, 207
 - interrogation, 199, 207, 231, 237–238
 - extracting information, 237
 - one-sidedness of, 234
 - questions in, 327–328, 329
 - Reid method, 235
 - rules for, 236–237
 - media, 197
- intrusion, 224
- jailhouse testimony, 26
 - origins of, 39
 - strength of, 39
 - underlying factors, 27
- Jennings, Nicholas R., 183
- Johnson case, 72, 129
- Jonsen, Albert R., 68
- Josephson, John R., 92
- Josephson, Susan G., 92
- judge
 - function of, 246, 291, 323
 - preferences of, 270
- Judge Dee, 279
- junk science, 264
- jurisdiction, 270
- jury
 - conclusion drawing, 135
 - decision-making, 72, 129
 - plausible expectations of, 135
- justification, 156
 - legal, 146
- Kaiser, Artur, 197
- knowledge, 13, 293
 - accumulation of, 52
 - base, 40, 180, 198, 217
 - common, 94, 114, 124, 254
 - common sense, 91
 - expert, 266
 - general, 31
 - incomplete, 22
 - iterated modalities of, 171
 - lack of, 48, 242, 293
 - medical, 135
 - personal, 49, 244, 247, 272
 - types of, 13
 - value of, 14
 - world, 128, 129–130
- Krabbe, Erik C. W., 147, 153, 161, 190, 320
 - commitment set, 166
- Kripke, Saul, 161
- Kumho Tire v. Carmichael, 265, 269
- language
 - agent communication, 170
 - common, 72
 - function of, 268
 - indicator words, 80
 - key words, 283
 - natural, 162
- Lawry, Robert P., 229–230
- lawyer. *See* attorney
- Leenes, Ronald, 147
- legal argumentation
 - fallible, 139
- legal system
 - adversarial, 279
 - inquisitorial, 279, 285
- Leiter, Brian, 95
- Levy, Earl J., 26, 39
- likings, 116
- line of reasoning, 73, 98, 169–170
 - forward, 173
- links, 64
- Locke, John, plausible reasoning, 68
- Lodder, Arno, 147,
 - burden of proof, 187
 - formal dialogue systems, 164
- Loftus, Elizabeth, 66
 - psychological bias factor, 26
 - question-wording effect, 318
 - intuitionistic, 161
- logical positivists, 13

Cambridge University Press

978-0-521-70770-1 - Witness Testimony Evidence: Argumentation, Artificial Intelligence,
and Law

Douglas Walton

Index

[More information](#)

- McBurney, Peter, 116, 190, 202
 McCannell, Munro, 120, 121
 McCormick, Neal, 188
 MacCrimmon, Marilyn, 62
 McElhaney, James W., 262–263
 Mackenzie, Jim (DC system), 160–163
 Margie's balloon story, 107
 Martha Moxley case, 38–39
 maxim of statutory interpretation, 338
 MDU Resources Group v. W. R. Grace and Company, 272
 medical diagnosis, system, 92
 memory
 aid, 222
 fallible, 333
 false, 2, 258
 lapses of, 263
 recovered, 35, 82–83
 metadialogues, 189, 224
 Miller, Geoffrey, 338
 minimum model, 155
 Miranda doctrine, 281
 Mrs. Jones ulcer case, 134–135
 Mr. Doe case
 informative dialogue, 268
 persuasive dialogue, 268
 models of dialogue
 CB dialogue system, 161, 215
 CB+ dialogue system, 161, 215
 CBV dialogue system, 162, 215
 CBZ dialogue system, 162, 215–216
 rules for, 215
modus ponens, 160, 304
 defeasible *modus ponens* (DMP), 45–47, 304
 strict *modus ponens* (SMP), 47, 304
 structure, 130
 types distinguished, 47
 Moore, Johanna D., 124
 Morris, Jon R., assessing witness testimony, 50, 60
 move
 appropriateness of, 155
 described, 125
 evaluated, 275
 grounds to support a claim, 160
 multi-agent systems, 44
 communication evaluation in, 183
 models in, 184
 negation, 96
 new evidence scholarship, 92
 Oates false testimony case, 24–25
 objections
 classic, 318
 described, 72
 procedural, 261
 raising an, 223, 247
 replied to, 253–254
 objectivity, 49, 50, 60, 82
 obligation, 172, 175. *See also* burden of proof
 observational sensitivity, 49, 50, 82
 observers, 112
 Ogle, Richard, 154, 262, 322, 325
 opinions
 described, 51
 underlying, 70
 openness, 32
 Palmer, 54–55
 Park, Roger C., 72, 155–156, 188, 223–224, 231, 257, 260
 Parkman, Allen, 154, 262, 322, 325
 Parsons, Simon, 190
 partiality, 229
 Pascal, Blaise, 68
 attacked casuistry, 71
 passerby case, 195–197, 199, 240, 253, 283
 Peirce, Charles S., 63, 70
 Pennington, Nancy, 72, 128–129
 story model, 108–109, 114, 128
 Penrod, Steven D., 108–109, 279–280
 Perelman, Chaim, 146–147
 perception, 52, 201
 perjury, 143, 144, 258, 271, 327
 police, 281
 personal attack, 22, 113, 143, 186, 227
 personal attack argument. *See ad hominem* argument
 personal injury case, 258–259
 persuasion
 burden of, 156, 187–188
 goal of, 163
 means of, 124
 rational, 159–160, 176
 Peter shot George examples (argument 1–3, 8–12), 18, 20, 21, 32, 43, 48, 56, 57, 58, 192
 Pizzi, William T., 280–281
 plan, 217
 Plato, witness testimony views, 14
 plausible reasoning, 63, 94, 96
 based on, 68–69
 criteria for, 71

Cambridge University Press

978-0-521-70770-1 - Witness Testimony Evidence: Argumentation, Artificial Intelligence, and Law

Douglas Walton

Index

[More information](#)

362

Index

- plausible reasoning (*cont.*)
 - defeasible, 65
 - described, 5
 - historical origins of, 67–72
 - strength of, 62
- plausibility, 62
 - balance of, 113
 - defeated by plausibility, 112
 - described, 92, 94, 144
 - undermining, 112
 - values, 92–93
- plea-bargaining, 163, 281
- pleader, 187
- pleading, 73, 257
- pleadings game, 147, 151, 164
 - parties in, 147
- point of view, 176
- police officer example, 221–222
- Pollock, John L., 21n4, 53–55, 73, 97–99, 308
 - likings, 116
 - system of artificial intelligence, 52
- Porter, James, 154, 262, 322, 325
- positivistic view, 141
- Possley, Maurice, 125
- Poythress, Norman G., 268
- practical reasoning
 - defined, 115
 - structure of, 123
 - value-based argumentation scheme for, 116–117
 - critical questions for, 117
- Prakken, Henry, 8, 19, 53, 73, 129–130, 148, 151, 154, 296
 - formal system, 160, 189
 - persuasion dialogue, 160
- prejudice, 124, 277
- premise
 - basis of, 247
 - generalization, 29
 - inference link, 4
 - missing, 133
 - position to know, 49
 - strength of, 50
 - statement, 49
 - truth-telling, 48, 52, 110, 171
 - unexpressed, 114
- Presser, Stanley, rules 330
- presumption, 156
 - weight of, 32, 44
- presupposition, 324
- probability, 273. *See also* plausibility
 - described, 94
 - value, 95
- probative weight, 30
 - judged, 57
 - shifted, 43
- propensity argument, 24
- proof, 146
 - described, 19
 - requirement of, 244
 - search for, 167
 - standards, 306
- proponent, goal of, 175
- proposition
 - negation of, 70
 - nested sets, 63
- quarrel, 65
- questioner, 212–213, 323
 - goal of, 241
- questioning,
 - levels of, 321
 - line of questioning,
 - incompleteness, 228
- questions
 - argumentative, 72
 - choice, 138, 154, 208, 283, 325, 328
 - closed, 138, 154, 208, 323, 326
 - classification, 318
 - complex 260, 329
 - disjunctive, 328
 - evasion of, 135
 - fallacious, 329
 - follow-up, 138
 - foundations for, 49
 - how, 326
 - leading, 72, 135, 142, 225, 238, 258–263, 333
 - defined, 180, 262
 - excessive, 260
 - exclusion, 263
 - objected, 318–320
 - occasion for use, 262
 - problem of, 275, 326, 329–330
 - suggested response, 322
 - summation, 135
 - loaded, 39, 230, 263, 329
 - multiple-choice, 323
 - narrative, 328
 - open, 79, 113, 138, 208, 259, 284–285, 291, 323, 326–327
 - described, 154

Cambridge University Press

978-0-521-70770-1 - Witness Testimony Evidence: Argumentation, Artificial Intelligence, and Law

Douglas Walton

Index

[More information](#)

Index

363

- responses to, 323
 - answer, 323
 - direct answer, 323
 - reply, 323
- search, 138, 154, 325
- tag, 142–143, 321–322, 325
 - described, 143
- tricky, 197
- why, 153–155, 232–234, 321, 323–324, 326
- yes-no, 154, 216, 234, 242, 321, 323–327
 - limiting, 143
- rain/raincoat example (argument 4–7), 19, 29, 30, 31, 32, 141
- rationality, 183
- reasoning. *See also* plausible reasoning
 - chain of, 91, 133
 - common-sense reasoning, 148
 - defeasible, 164
 - fallibility, 274
 - lack-of-evidence, 107
 - legal, 147
 - line of, 169
 - extrapolation, 181–182
 - plausible,
 - basis, 68
 - chain of, 89
 - defeasible, 65
 - evaluating, 92
 - rules for, 93
 - procedural, 147
 - reductio ad absurdum*, 119
- reasoning structure, 73
- rebuttals, 7, 99, 110, 257, 283, 291, 304, 307–308, 336. *See also* defeaters; undercutters
 - burden of, 117
 - shifting, 117
 - compared, 21n6
 - described, 21n4, 59, 72
 - proactive, 125
- red light example, 52–53, 308
- Redmayne, Mike, 33–36, 82–83, 293
 - credibility corroboration, 86
- Reed, Chris, 301
- refutation, 121
- Reid, Thomas,
 - analysis of testimony, 15
- relevance, 138, 270
 - defined, 17, 173, 271
 - problems with, 271–8
 - determination of, 173
 - dialectical, 174–175
 - evaluating, 181
 - function of, 271
 - judging, 332
 - legal, 174
 - logical, 174
 - problem of, 259
- Rescher, Nicholas, 94, 141
 - consequence condition, 97
 - definition of conditional probability, 95
 - system, 93, 97, 99, 156
- respondent, 213
 - goal of, 175, 241
- restaurant story, 106–107
- retraction, 166
- reverse eikotic argument, 69–70
 - conclusion drawn, 70
- risk of nonpersuasion, 187, 188
- Robert's medical information example, 230
- Robinson, Richard, 160
- rules. *See also* Evidence
 - abuse of, 282
 - commitment, 164, 172, 234
 - common-sense, 109
 - defeasible, 53
 - dialogue, 146, 172
 - evidentiary, 62
 - of general practical discourse, 146
 - inconsistency stipulation rule (IS), 94
 - least plausible premise, 100–103
 - locution, 172, 234
 - Maxmin, 101
 - most plausible premise, 100–103
 - negation, 93–94, 99
 - ordinary default rule, 187
 - perception, 53
 - procedural, 331
 - relevance, 242
 - structural, 232, 234
 - Theophrastus rule, 96–97, 100–103
 - trial conduct, 72
 - turn-taking, 234
 - win-loss, 173, 234
- Sacco and Vanzetti case, 28
- Sandler, Paul Mark, 222
- Sartor, Giovanni, 154, 165
- Saunders, Kevin W., 186
- Schum, David A., 28, 46
 - analysis of evidence, 49–50, 55, 60
 - assessing witness testimony, 50

- Schum, David A. (*cont.*)
 conditional, 15
 question wording, 330
 theory of reasoning, 46
- Schuman, Howard, 330
- Schwartz, Louis E., 226
- Scots Law
 confession in, 121
 theories of witness admissibility, 35–36, 334
- script
 cohesion of, 117
 described, 105–106
- searching, 181, 198
- Shannon, Claude E., 201–202
- Silverman, Barry G., 217–218, 266
- Simpson (criminal) trial, 143, 280–281
- Singh, Munindar P., 170, 184
- skepticism, 105
- smear attack, 22
- Socrates
 dialogue, 178
 inconsistent commitments, 167
- Sophists, 70, 96
- speech acts, 158
 sequence of, 156
- speeding case 1–2, 63–64
- spouse abuse case, 242, 260, 319–321, 324, 329
- statute
 interpretation of, 338
- statement
 criteria for, 62–63
 generic, 30
- Stone, Marcus, 227
- story model, 106–107, 208
 coherence, 108, 123
 components of, 114
 expanded, 131
 jury decision making, 109
 plausibility, 108, 119–120, 122
 questioning, 111, 123
 undermining, 112
 weak spots, 122, 124
- straw man fallacy, described, 133–134
- sufficiency, 278
- tactics, 286
 bias, 229
 catalogue of, 233
 clever, 229–230, 280
 commit and contradict, 284
 of cross-examination, 227
 deceptive, 231, 235
 entrapment, 286
 fallacious rhetorical, 230
 interrogation, 233
 sophistical, 143
- testimonial evidence type 1, 83–84
- testimonial evidence type 2, 83
- testimonial evidence type 3, 83, 86–87
 evaluation of, 88
 propositions in, 87–88
- testimony, 209
 formal, requirements of, 16
 independent, 83
 internal consistency of, 67
 meaning of, 43
 profiting from, 26
- Theaetetus* example, 13–14
- Toulmin, Stephen, 68
 model, 18, 19–20, 46
 warrants, 88
- toxic tort cases, 264
- trial
 aim of, 292
 adversarial, 163
 argumentation in, 247–248
 balance of considerations, 221
 basis of, 125, 246, 286
 components of, 251
 examination argument in, 223
 fact-finding, 256
 fair, 185–186, 280, 283
 framework of, 172
 goal of, 255
 information-seeking function, 275
 object, 139
 purpose of, 178, 232, 246
 stages of, 135–136, 290
 underlying purpose, 138
 win-lose feature, 168
- trier
 critical thinking, 257
 decisions made by, 127–128, 138, 247, 250
 deliberation, 254
 information collection, 248, 257
 persuaded, 132, 251
 reasoned decision making, 145, 163, 165, 247, 337
 unbiased, 247
 viewpoint of, 250
- trust model, 183–184

Cambridge University Press

978-0-521-70770-1 - Witness Testimony Evidence: Argumentation, Artificial Intelligence, and Law

Douglas Walton

Index

[More information](#)

Index

365

- Tweety case, 43, 46, 311–312
 Twining, William
 analysis of evidence, 49
 generalizations, 31, 89, 137
 story-telling, 124
 dangers of, 124
 on Wigmore, 49, 65

 ultimate *probandum*, 63, 74, 273, 290
 related to ingredients, 64–65
 uncertainty
 reduction of, 202
 undercutter, 21, 48, 53, 160, 304,
 308
 character attack, 22
 described, 21n4
 difficulty of, 305
 Underwood, R. H., 318
 United States v. Durham, 262

 values, 116
 Van Eemeren, Frans H.,
 on critical discussion, 176
 dialogue model of argumentation, 148
 Van Kessel, Gordon, 253
 Van Koppen, Peter J., 56–57, 106–107, 109,
 111–112, 233, 279–280
 veracity, 22, 49, 171, 182, 185, 219, 227, 240,
 276
 described, 50, 183
 Verheij, Bart, 32
 defeasible generalizations, 46
 DefLog, 297, 304–305
 dialectical aspect, 21, 44, 110
 initial statement, 20
 modus ponens, 47

 Wagenaar, Willem A., 56–57, 106–107, 109,
 111–112, 233
 Walter McMillan case, 125–126
 Walton, Douglas, 301
 commitment set, 166
 critical questions, 115
 practical inference, 115
 warrant,
 described, 18–19
 weakest link principle, 88, 97–99
 Weast case, 187, 188–189
 Weaver, Warren, 201–202
 Wellman, Francis L., 225–226

 Whately, Richard, 59
 on fact versus opinion, 51, 52
 Wigmore, John Henry, 260, 314
 burden of proof, 187
 charts, 49, 66, 72, 302
 diagram, 74, 98, 181
 example, 77–78
 qualifier, 66
 science of logic, 2
 theory of evidence, 67, 74
 built on inferences, 65, 67
 connected, 65
 Wilson, W. A., 63–64, 105
 conflicting theory evaluation, 35–36
 witness
 biased, 65
 character attack, 227
 coaching, 258
 credibility, 23, 143, 208, 218–221, 227, 229,
 254
 examination, 143, 283
 eristic, 185
 peirastic theory of, 278
 fallibility of, 284
 hostile, 224
 indirect attack on, 229
 presumptions about, 245
 reliability factors, 49
 truthfulness of, 48
 unreliable, 130
 veracity of, 227
 victimized, 230
 witness testimony
 defeasible nature of, 13, 246
 fallibility of, 4, 12, 24
 modeled, 36
 plausibility, 132
 presumptions about, 15
 probative value of, 36
 reliability, 207
 strategic lying in, 187
 verified, 240
 Wooldridge, Michael, 183, 190
 workability, described, 113
 wrongful conviction, 4, 66, 140, 281
 factors leading to, 12, 25–26, 28
 plausible stories in, 111–112
 weakness of justice system, 281

 Yu, Bin, 184