

CO375 ARGUMENTATION THEORY
TTH 9 - 10:15 P.M., LYONS HALL 202
FALL 2007

DALE HERBECK

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COURSE DESCRIPTION. Argumentation is an art of inquiry and advocacy, calling for the exercise of judgment by someone. It involves “establishing” claims by adducing “reasons” for them. So long as the standards of proof and evidence remain uniform, the requirements of such proof are unlikely to be controversial. When such standards are not uniform, or are not uniformly accepted, however, the requirements of proof itself become a point of contention. This course considers the nature of argument, the standards that are used when evaluating arguments, and how these standards can be applied to legal arguments and judicial decisions.

READINGS. As an alternative to a traditional textbook, all readings for this course are available through WebCt. Students registered for Argumentation Theory can access WebCT in one of two ways:

1. URL login <http://webct.bc.edu:8900>; login requires BC ID and password. NOTE: You need the :8900 at the end of the address. This is especially important if you try to access WebCT from off-campus using a third-party Internet Service Provider. In most instances, you will not be able to access <http://webct.bc.edu> without the :8900.
2. Agora drop-down menu option <https://agora.bc.edu/course/enter.webct>; login (to Agora) requires BC ID and password. You will not need a special login for WebCT once you have logged onto Agora.

If you have trouble access WebCT, please consult the “Student FAQs” prepared by Instructional Design and eTeaching Services available at:

http://bc.edu/offices/instruction/eteaching/webct/student_faqs.htm

WARNING: This course is based on notable legal arguments and significant Supreme Court decisions and this means the readings and class discussions will cover tragic crimes and controversial topics. This includes genocide (Nüremberg Trials), mass murder (the trials of Charles Manson and Timothy McVeigh), murder (the trial of Loeb and Leopold), racially motivated crimes (the assassination of Medgar Evans), racial discrimination (Korematsu v. United States), offensive language (Cohen v. California), and flag desecration (Texas v. Johnson). So too, the discussion may become spirited on occasion. While full and active participation is expected, an atmosphere of mutual respect and good will must prevail for the class to succeed.

READING ASSIGNMENTS. The accompanying schedule provides specific reading assignments for each class session. You are responsible and accountable for all reading assignments, even if the material is not explicitly addressed during lecture. Readings should always be completed before class. Please note that the subject matter for this course is extremely complex and it would be difficult, if not impossible, to complete multiple readings in a single extended sitting.

WARNING: This course requires the engaged involvement of all students. This means you are expected to read the assigned material before class and that you are prepared to actively participate in discussions. If you are unable to participate because you did not complete the reading, you will be counted as absent and that may adversely affect your course grade. (See the "Attendance Policy" section of this syllabus.)

WRITTEN ASSIGNMENTS. There will be two ten-page papers. Handouts with specific instructions will be provided two weeks before the paper is due. Papers must be submitted in both an electronic (for plagiarism check) and a paper format (for written comments).

1. LEGAL ARGUMENT PAPER. This paper will require the application of an argumentative perspective to a significant legal argument. DUE DATE: Tuesday, 30 October 2007, at 9 a.m.
2. JUDICIAL OPINION PAPER. This paper will require the evaluation of the argument contained in a landmark Supreme Court decision dealing with freedom of speech. DUE DATE: Thursday, 6 December 2007, at 9 a.m.

Papers received from one to three days late will be penalized one letter grade. Paper received from four to seven days late will be penalized two letter grades. No papers will be accepted more than one week late. Absent the most extraordinary of circumstances (documented in writing by the Dean's Office), all late papers will be penalized.

WARNING. Since the due dates for the papers are known from the outset of the class, there is no good reason why the papers cannot be completed on time. It would, moreover, be unfair to selectively grant extensions.

TESTS. There will be a quiz and a final examination.

1. TYPE/STRUCTURE QUIZ. The fallacies quiz will be given on Thursday, 4 October 2007, at 9 a.m. Although this exercise is labeled a "quiz" (100 points, 10% of your grade) because it focuses exclusively on the content of three lectures, you should probably prepare for this exercise as you would a formal "examination."
2. FINAL EXAMINATION. The final examination will be given on Wednesday, 19 December 2007, at 9 a.m. The final examination (300 points, 30% of course grade) will be two hours in length, comprehensive in scope, and will be composed of identification (terms), short answer (identification and compare/contrast concepts), and essay questions.

The dates for the quiz and the final examination are clearly indicated on this syllabus and the course schedule. Absent the most extraordinary of circumstances (documented in writing by the Dean's Office), there will be no make-up examinations.

WARNING. Please note that this policy includes our final examination scheduled by the university for Wednesday, 19 December, at 9 a.m. Your personal travel plans do not constitute legitimate grounds for moving the examination. If the date of the final exam is inconvenient, you should drop Argumentation Theory and find a class that is more conducive to your needs.

GRADING. Letter grades will normally be assigned according to the following scale:

90 to 100 percent	A = Excellent
80 to 89 percent	B = Very Good
70 to 79 percent	C = Average
60 to 69 percent	D = Below Average
00 to 59 percent	F = Failing

By definition, a large proportion of all work is “average.” If a large proportion of the work prepared is “very good” or “excellent” then the “average” standard will be adjusted accordingly. Consequently, there will be substantially fewer scores in the 80 to 100 percent range than in the 70 to 79 percent range.

In assigning course grades, assignments will be weighed according to the following distribution of points:

Type/Structure Quiz (4 October)	100	possible points
Legal Argument Paper (due 30 October)	250	possible points
Judicial Opinion Paper (due 6 December)	350	possible points
Final examination (19 December)	300	possible points
TOTAL	1000	POSSIBLE POINTS

There is no extra credit in Argumentation Theory. Scores on the quiz, the two papers, and the final examination will be totaled to determine course grades. In the past, cumulative scores between 900 and 1000 points have received an “A,” 800 and 899 have received a “B,” 700 and 799 a “C,” 600 and 699 a “D,” and between 0 and 599 a “F.” Scores in the lower 30 to 40 percent of a range will receive a “minus” qualifier. Scores in the upper 10 percent of a range will receive a “plus” qualifier. Poor participation or an excessive number of absences will result in the reduction of a final course grade (see attendance policy for details).

POLICIES AND REQUIREMENTS. This course will be governed by the “Academic Regulations” delineated in the Boston College Undergraduate Catalog and by the policies of the Communication Department. Three policies are worthy of special elaboration:

Attendance Policy (Communication Department)

Attendance is required as a condition of successful completion of all courses in the Communication Department. After missing any class session, a student is responsible for finding out about assignments, due dates, announcements, handouts, and material covered during the missed session, and for making up any missed work. The student is also responsible for obtaining class notes from a classmate for the session, and for learning the material from that session for the quiz and/or final examination.

The equivalent of two weeks of absence from any course will reduce a student’s course grade by one full letter grade. Absence from more than a combined total of three weeks of class meetings will result in automatic failure of the course. (Since this class meets twice a week, four absences will result in a letter grade reduction and six absences will result in automatic failure.) There are no exceptions to this rule.

Absences for any reason--illness, personal crises, athletics or other extra-curricular activities--are included in this total. If a student is involved in any activity that might require that student to miss two or more weeks of class, then that student should not enroll in Argumentation Theory.

Beginning on Thursday, 6 September 2007, attendance sheets will be circulated shortly after the beginning of class. Students are responsible for signing the sheet to document their presence. Students arriving after the sheets are circulated or leaving early will be counted as absent for the class. Attendance totals will be circulated after the midterm examinations so students can track their absences.

WARNING: The attendance sheets are the definitive record. It is your responsibility to sign the sheet. If your signature is not on the sheet, you will be counted as absent, even if you have handouts or notes from the day in question.

WARNING: Many students make the mistake of taking absences early in the semester. Having expended their "free" absences, they are disappointed when they need to miss a class later in the semester for a legitimate reason. Please do not make this mistake as it can seriously impact your final course grade.

Statement on Classroom Civility (Herbeck)

It has become fashionable to lament the demise of civility in the classroom. To appreciate this problem, it is important to remember why civility is an important virtue. Civility is not an end in and of itself; rather civility is an essential precondition for learning. In the interest of maximizing the educational experience of all students, the following standards for behavior will be enforced in Argumentation Theory.

- No student shall lessen the learning experience of others in the classroom by arriving late to class or by leaving the classroom while class is in session, except for true medical emergencies. (Students arriving late will not be allowed to sign the attendance sheet and students leaving early will have their signature removed from the sheet.)
- No student shall disrupt the learning experience of others in the classroom by talking to a neighbor, exchanging messages (written or electronic) with other students, reading the newspaper, completing homework for other classes, or playing with a laptop computer while class is in session.
- Cell phones, pagers and other electronic devices (with the exception of laptop computers used for taking notes) must be turned off during class.
- No student shall disrespect other Boston College students, professors or the housekeeping staff by leaving trash, food, or recyclables in the room at the end of the class session.

Policy on Academic Integrity (Communication Department, College of Arts and Sciences)

The Communication Department holds the highest standards of academic honesty for all students. The maintenance of these standards is essential to the basic functioning of the department as an academic community, and makes possible the conduct of fair, meaningful, and worthwhile educational experiences. Because the faculty of this department takes academic honesty so seriously, we remind students in all communication courses that they signed the College's academic integrity statement during freshman orientation.

Instances of cheating, plagiarism, dishonesty or collusion are treated as serious transgressions by the Communication Department. Sanctions for such breaches of academic integrity will include failure of the course, ejection from the major, and/or expulsion from Boston College. All cases will be referred to the Department Chairperson or the Dean of the College of Arts and Sciences.

In order to help ensure honesty in written work submitted as part of the course requirements for courses within the Communication Department, the department requires that ALL written assignments for ALL department courses be handed in on diskette as well as on paper. The diskettes will routinely be checked for plagiarized material through a

professional service that analyzes the content of the work against a broad range of Internet and on-line databases. Written work will not be accepted unless it is accompanied by a diskette version.

Statement on Academic Integrity from the College of Arts and Sciences:

The College of Arts and Sciences expects all students to adhere to the accepted norms of intellectual honesty in their academic work. Any form of cheating, plagiarism, or dishonesty or collusion in another's dishonesty is a fundamental violation of these norms.

CHEATING is the use or attempted use of unauthorized aids in any exam or other academic exercise submitted for evaluation. This includes data falsification; the fabrication of data; deceitful alteration of collected data included in a report; copying from another student's work; unauthorized cooperation in doing assignments or during an examination; the use of purchased essays, term papers, or preparatory research for such papers; submission of the same written work in more than one course without prior written approval from the instructor(s) involved; and dishonesty in requests for either extensions or papers or make-up examinations.

PLAGIARISM is the deliberate act of taking the words, ideas, data, illustrative material, or statements of someone else, without full and proper acknowledgment, and presenting them as one's own.

COLLUSION is assisting or attempting to assist another student in an act of academic dishonesty.

As part of your scholarly development, you must learn how to work cooperatively in a community of scholars and fruitfully utilize the work of others without violating the norms of intellectual honesty. You have a responsibility to learn the parameters of collaboration and the proper forms for quoting, summarizing and paraphrasing.

Faculty members who detect any form of academic dishonesty have the responsibility to take appropriate action. The faculty member also has the responsibility to report the incident and penalty to the Department Chairperson and the appropriate Class Dean. The report will remain in your student file until you graduate.

If the gravity of the offense seems to warrant it or if the faculty member prefers that another academic authority decide the matter, he or she may refer the case to a Dean. In addition, if the student is unwilling to accept the faculty member's decision, he or she may choose to have the matter adjudicated either by an Associate Dean or by an Administrative Board. The section of the College of Arts and Sciences in the Boston College Undergraduate Catalogue has further details about this process.

WARNING: The Communication Department is fully committed to academic integrity and all instances of cheating, plagiarism, and collusion will be punished. Any dishonesty in Argumentation Theory will result in failure for the course. In particular, please note that any attempt to misrepresent attendance will be treated as a form of dishonesty and will be punished accordingly.

FINAL THOUGHTS.

ABOUT THE SYLLABUS. This syllabus constitutes a contract between the student and the professor and remains in effect from the first day of the course until final grades are assigned. The terms of this contract are binding and non-negotiable. Students unwilling to abide by the syllabus are strongly advised to drop this course.

ABOUT GRADE BREAKS. Any grading or tabulation mistakes will be corrected and, if that changes final course grades, the necessary paperwork will be submitted. Once the grade breaks have been set, however, equity demands those breaks be consistently applied to all students. It would be wrong for one student with 890 points to receive a B+, while another student with the same point total received an A-.

ABOUT FAIRNESS. As might be expected, students are often disappointed when they discover that they will lose a letter grade due to poor attendance or, worse yet, fail the course due to an academic integrity issue. When confronted with the rules of the course or the policies of the Communication Department, aggrieved students will frequently plead for an exception. More often than not, these appeals will start with a variation on the following sentence: "I know you have a rule, but . . . "

Many students subscribe to fairness in principle, so long as the principle is not applied to their disadvantage. Great philosophers like John Rawls have written books in which they address the importance of fairness. The intent of this statement is not to add to this discourse, but rather to reiterate the commitment to consistently apply the rules and policies set out on this syllabus.

**CO375 ARGUMENTATION THEORY
COURSE SCHEDULE
FALL 2007**

<u>Date</u>	<u>Topic</u>
4 September	Introduction to the Course
6 September	Rehabilitating Argument
	Reading
	<ul style="list-style-type: none">• 1a: Wayne Brockriede, "Arguers as Lovers," <i>Philosophy and Rhetoric</i> 5 (Winter 1972), 1-11. (Length: 12 pages)
11 September	Forms of Argument (Inductive and Deductive Claims)
	Reading
	<ul style="list-style-type: none">• 2a: Vincent Bugliosi, "Closing Argument in <i>The State of California v. Charles Manson, et al.</i>," Los Angeles, CA, January 15, 1971. (Length: 38 pages)
13 September	Perspectives on Argumentation Theory
	Reading
	<ul style="list-style-type: none">• 3a: Joseph W. Wenzel, "Three Perspectives on Argument: Rhetoric, Dialectic, Logic," in <i>Perspectives on Argumentation: Essays in Honors of Wayne Brockriede</i>, ed. Robert Trapp and Janice Schuetz (Prospect Heights, IL: Waveland Press, 1990), pp. 9-26. (Length: 18 pages)• 3b: Bobby DeLaughter, "Closing Argument in <i>The State of Mississippi v. Byron De La Beckwith</i>," Jackson, Mississippi, January 25, 1994. (Length: 7 pages)
18 September	The Rhetorical (Traditional) Approach to Argument
	Reading
	<ul style="list-style-type: none">• 4a: Aristotle's <i>Rhetoric</i> (Length: 5 pages)
20 September	Rhetorical (Traditional) Case Study
	Reading
	<ul style="list-style-type: none">• 5a: Justice John Marshall Harlan (majority), <i>Cohen v. California</i>, 403 U.S. 15 (1971). (Length: 6 pages)• 5b: Justice Antonin Scalia (dissenting), <i>United States v. Virginia</i>, 518 U.S. 515 (1996). (Length: 6 pages)

25 September Structures and Schemes (Toulmin Model)

Reading

- 6a: Stephen Toulmin, *Uses of Argument* (Cambridge, UK: Cambridge University Press, 1958), pp. 94-107. (Length: 14 pages)
- 6b: Wayne Brockriede and Douglas Ehninger, "Toulmin on Argument: An Interpretation and Application," *Quarterly Journal of Speech* 46 (February 1960): 44-53. (Length: 10 pages)
- 6c: Stephen Toulmin, Richard Rieke, and Allan Janik, "Legal Reasoning," in *An Introduction to Reasoning* (New York: Macmillan, 1979), pp. 203-227. (Length: 25 pages)

27 September Toulmin Model Case Study

Reading

- 7a: Justice Robert H. Jackson, "Closing Argument for the Prosecution at the War Crimes Trial," Nüremberg, Germany, July 26, 1946. (Length: 23 pages)

2 October Narrative and Argument I: The Narrative Paradigm

Reading

- 8a: Walter R. Fisher, "Narration as Human Communication Paradigm: The Case of Public Moral Argument," *Communication Monographs* 51.1 (March 1984): 1-22. (Length: 23 pages)
- 8b: Robert C. Rowland, "On Limiting the Narrative Paradigm: Three Case Studies," *Communication Monographs* 56.1 (March 1989): 39-54. (Length: 16 pages)
- 8c: Walter R. Fisher, "Clarifying the Narrative Paradigm," *Communication Monographs* 56.1 (March 1989): 55-58. (Length: 4 pages)

4 October Type/Structure Quiz

9 October Narrative Case Study

Reading

- 9a: Joseph Hartzler (prosecution) and Steven Jones (defense), "Opening Arguments in *United States v. Timothy McVeigh*," Denver, Colorado, April 24, 1997. (Length: 53 pages)

11 October Narrative and Argument II: Legal Storytelling

Reading

- 10a: Gerry Spence, "Discovering the Story" and "Discovering the Story Through Psychodrama," in *Win Your Case: How to Present, Persuade, and Prevail—Every Place, Every Time* (New York: St. Martin's Griffin, 2005), pp. 86-111. (Length: 26 pages)

16 October Storytelling Case Study

Reading

- 11a: Clarence Darrow, "Closing Argument in *The State of Illinois v. Nathan Leopold and Richard Loeb*," Chicago, Illinois, August 22, 1924. (Length: 26 pages)

18 October Definitional Argument

Reading

- 12a: David Zarefsky, "Definitions," in *Argument in a Time of Change: Definitions, Frameworks, and Critiques*, ed. James F. Klumpp (Annandale, VA: National Communication Association, 1998), pp. 1-11. (Length: 12 pages)
- 12b: Jeffrey St. John, "Matters of Public Concern: Reconceptualizing Public Employee Free Speech Through Definitional Argument," *Rhetoric and Public Affairs* 6.2 (2003): 261-284. (Length: 24 pages)

23 October Definitional Argument Case Study

Reading

- 13a: *PGA Tour v. Martin, Inc.*, 532 U.S. 661 (2001). (Length: 49 pages)

25 October Law and Literature

Reading

- 14a: James Boyd White, "The Judicial Opinion and the Poem: Ways of Readings, Ways of Life," *Michigan Law Review* 82 (June 1984): 1669-1698. (Length: 18 pages)

30 October Law and Literature Case Study

Reading

- 15a: Justice Robert H. Jackson (majority), *West Virginia v. Barnette*, 319 U.S. 624 (1943). (Length: 9 pages)
- 15b: Justice William Brennan (majority), *Texas v. Johnson*, 491 U.S. 397 (1989). (Length: 11 pages)

DUE DATE: Legal Argument Paper (9 a.m.)

1 November Law and Language II: Metaphor

Reading

- 16a: George Lakoff and Mark Johnson, *Metaphors We Live By* (1980). (Length: 8 pages)
- 16b: Elizabeth G. Thornburg, "Metaphors Matter: How Images of Battle, Sports, and Sex Shape the Adversary System," *Wisconsin Women's Law Journal* 10 (1995): 225-281. (Length: 25 pages plus footnotes.)

6 November Metaphor Case Studies (Fire Metaphors and “Three Strikes”)

Reading

- 17a: Justice Oliver Wendell Holmes (majority), *Schenck v. United States*, 249 U.S. 47 (1919); Justice Oliver Wendell Holmes (majority), *Frohwerk v. United States*, 249 U.S. 204 (1919); Justice Edward Terry Sanford (majority), *Gitlow v. New York*, 268 U.S. 652 (1925); Justice Louis Brandeis (concurring opinion), *Whitney v. California*, 274 U.S. 357 (1927); and Justice Felix Frankfurter (majority), *Butler v. Michigan*, 352 U.S. 380 (1957). (Length: the five cases total 17 pages)
- 17b: Dale A. Herbeck, “Three Strikes and You’re Out: The Role of Sports Metaphors in Political Discourse,” in *Baseball and American Culture*, ed. Peter M. Rutkoff (Jefferson, NC: McFarland, 2000), 133-146. (Length: 14 pages)

8 November Drama and Argument

Reading

- 18a: Clark Rountree, “Instantiating ‘The Law’ and its Dissents in *Korematsu v. United States*: A Dramatistic Analysis of Judicial Discourse,” *Quarterly Journal of Speech* 87.1 (February 2001): 1-24. (Length: 25 pages)

13 November Drama Case Study

Reading

- 19a: William K. Kunstler, “Closing Arguments in *The State of Illinois v. Abbie Hoffman, et al.*,” Chicago, Illinois, February 1970. (Length: 6 pages)

15 November **NO CLASS, NATIONAL COMMUNICATION ASSOCIATION CONVENTION**

20 November Visual Argument

Reading

- 20a: David S. Birdsell and Leo Groarke, “Toward a Theory of Visual Argument,” *Argumentation and Advocacy* 33 (Summer 1996): 1-10. (Length: 11 pages)

22 November **NO CLASS: THANKSGIVING VACATION**

27 November Visual Argument Case Study

Reading

- 21a: Donald Re, “Closing Argument in *The State of California v. John DeLorean*,” Los Angeles, CA, 1984. (Length: 32 pages)

29 November Spheres of Argument

Reading

- 22a: G. Thomas Goodnight, "The Personal, Technical, and Public Spheres of Argument: A Speculative Inquiry into The Art of Public Deliberation," *Journal of the American Forensic Association* 18 (1982): 214-227. (Length: 14 pages)
- 22b: Douglas Walton, "Expert Testimony as Legal Evidence," in *Appeal to Expert Opinion: Arguments from Authority* (University Park, PA: Pennsylvania State University Press, 1997), pp. 167-198. (Length: 32 pages)

4 December Spheres of Argument Case Study

Reading

- 23a: *Daubert v. Merrell Dow Pharmaceuticals*, 509 U.S. 579 (1993). (Length: 10 pages)

6 December Make-Up Day/Review for Final Examination

DUE DATE: Judicial Opinion Paper (9 a.m.)

19 December FINAL EXAMINATION (Wednesday, 9 a.m.)

21 December Final grades posted (before 12 noon)