

# Exercise Answer Sheet: Spotting Argument Types

Your answers by argument type are listed below. *Review your answers:* do the argument bites form a logical pair within each argument type? If not, go back to the exercise and try to re-classify the argument bites.

Once you are satisfied with your answers, please save or print this page and bring it to class.

## Denial of Premise (Factual)

*Dickson:* There is no basis for distinguishing this case from *Peters* on the facts. Both cases were about peaceful picketing within a shopping centre in connection with a labour dispute. Therefore the Court here should apply the principle from *Peters* and arrive at the same result.

*Laskin:* *Peters* can be distinguished from this case on the facts because here the defendant, Sophie Carswell, was engaged in a lawful strike protected by labour relations legislation, whereas in *Peters* the defendant was engaged in a boycott of goods sold by a store in the mall.

## Denial of Premise (Normative)

*Dickson:* The *Peters* case stands for the principle that shopping mall owners have sufficient possession of shopping mall sidewalks to exercise their right to exclude members of the public by bringing an action in trespass against them.

*Laskin:* *Peters* does not stand for the principle that shopping mall owners have sufficient possession of shopping mall sidewalks in all circumstances to exclude members of the public without a good reason to do so.

## Symmetrical Opposition

*Dickson:* Property owners have a fundamental right to enjoyment of their property.

*Laskin:* Members of the public have fundamental rights (such as labour rights) that require access to public spaces for their lawful exercise.

## Counter Theory

*Dickson:* Attempts to balance competing interests—here, the commercial interests of the mall owner and the interests of the picketers in exercising the power of collective action in labour disputes—are the proper domain of elected legislatures rather than the courts, which are bound by the principle of *stare decisis* (past cases are binding).

*Laskin:* Courts should not pay “mechanical deference” to *stare decisis*, but rather have an obligation to respond to “new social facts” as they emerge by adapting the law to meet them.

## Mediation

*Dickson:* The *Petty Trespasses Act* gives property owners the right to exclude any member of the public for any reason by bringing an action in trespass against them.

*Laskin:* Members of the public enjoy a privilege of access to areas of property normally treated as public—a privilege which property owners have the power to revoke (by bringing an action under the *Petty Trespasses Act*) only if a member of the public is engaged in bad behaviour.