

# Benjamin Shear

## Statutory interpretation and *de dicto/de re* distinction

Friday 27 Sep (15:15 - 16:45), room 1312.0012

$\square \exists x Ax$

$\exists x \square Ax$

This paper examines Anderson's (*Yale Law Journal* (2008) 117: 992–1069) proposal to add the *de dicto/de re* distinction to the legal advocate's toolkit, and considers some broader issues that arise from the interaction between linguistic theorizing and statutory interpretation. Anderson's proposal, an ingenious one, is to have an ambiguity recognized in the text of the *Americans with Disabilities Act (ADA)*, thereby allowing courts to move beyond the legal text itself and to consider a useful form of background information, that of 'legislative history'. What I shall argue, however, is that significant difficulties exist in applying the *de dicto/de re* distinction — which, while familiar in linguistics and philosophy, is still far from fully understood — to the *ADA* text. As I shall show, there is substantial linguistic evidence that this distinction is not at play after all in the *ADA* text, which prohibits discrimination against a person 'regarded as having ... an impairment'. Moreover, there is good reason to doubt that the *de dicto/de re* distinction constitutes a linguistic ambiguity in the first place — a claim that raises broader issues about the application of linguistic analysis to the legal domain.

