



# HACLR

## Humboldt American Comparative Law Review

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### The Worth of Lies Testing Witness' Character and Truthfulness

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Doctor House, a popular American TV show's character recites: "Everybody lies." In court, however, such depiction is either criminal or procedural. Inadvertently, intentionally, inconspicuously, conveniently or, in some occasions, insidiously, witnesses tend to abbreviate their perceptions and even, when lawfully prepared, to restraint the flow of information particularly on cross-examination. A lie is a diptych with different venues and axes. Arguably, they are easily spotted when perceived in their assertive nature but difficult to entertain when barely neglected or intentionally omitted. In court, omissions are not necessarily lies as some times they are constitutionally protected (e.g., self-incriminating information).

In both common law and constitutional defamation actions a lie is ultimately material. It sets forth the defendant's liability as it may deflect his most precious affirmative defense: The truth. In essence, the truth sets the libel defendant free; a lie, however, makes him legally liable and, a reckless one, constitutionally liable. Yet, evidence of a witness' character and truthfulness is barely synchronized with the Federal Rules of Evidence (e.g., bias, hearsay, credibility). Some states have actually delimited the admission of character evidence depending on the cause of action. Both common and civil law countries envision character evidence on defamation as cornerstone to ascertain the defendant's liability. This Article analyzes across the lines, i.e., states, federal, and international law, the use and misuse of character evidence to impeach all kind of witnesses from torts, criminal to constitutional and contracts law.

Cite., 17 HACLR 1, at 47 (2015).