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Kepler, Witchcraft, and the Law

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In 1620-1621, Johannes Kepler wrote a detailed argument defending his mother, Katharina, against witchcraft charges. Witches were also being tried in England during this period. Lacking eyewitnesses and direct physical evidence, factfinders had to rely on circumstantial evidence. Circumstantial evidence is not direct proof of the elements of a crime, but an inference of one fact from another—suspicious circumstances that bolster the impression of culpability. Reputation and character were also crucial in witchcraft trials, which were about the individual as well as the act. This paper will compare the Roman-canon law followed at the Kepler trial and the English common law; for one thing, English procedure barred torture in witchcraft cases, while Continental cases depended on it to elicit confessions. But English juries could and did convict on indirect evidence which on the Continent merely sufficed to continue investigation by resorting to torture. The two systems constitute different ways of knowing, defining knowledge, and understanding the past. This paper will also discuss Kepler's attack on the evidence in his mother's case and will ask: Did Kepler's experience with the courts likely make him appreciate the law's handling of evidence? Or did it have the opposite effect?

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Short Biography

Lisa Klotz, a former practicing attorney, is a lecturer at the University of California, Davis. She also serves as adjunct faculty at the Mitchell Hamline School of Law. She has a J.D. and a Ph.D. in English, with a specialization in early modern English drama. She produces scholarship in two areas: teaching legal reasoning and writing, and intersections between early modern English law and literature. Her essays have appeared in *Studies in English Literature, 1500-1900*; *Cahiers Elisabethains*; and *Evidence in the Age of the New Sciences*.

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