

The Use of Inferences at Trial and on Appeal

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- ▶ David Fisher and Jefferson Fisher
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- ▶ Coyt Johnston

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“Inference”

- ▶ A conclusion reached by considering other facts and deducing a logical consequence from them. (*Black’s Law Dictionary*)
- ▶ Deduction of a fact from other facts already proved or admitted.

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“Presumption”

- ▶ A *presumption* is a rule of law requiring the trier of fact to draw a certain conclusion from given facts absent evidence rebutting the conclusion. Carlos C. Cadena, *The Pyramiding of Presumptions and Inferences in Texas*, 4 ST. MARY’S L.J. 1, 2 (1972).
- ▶ May be rebuttable or irrebuttable.

4

“Presumption”

- ▶ Texas Family Code imposes a rebuttable presumption that the standard possession order is in a child’s best interest. *See* Tex. Fam. Code Ann. § 153.252.
- ▶ Presumption that a nonlawyer employee received information about a matter she actually worked on at her former firm is irrebuttable. *In re Columbia Valley Healthcare Sys., L.P.*, 320 S.W.3d 819, 824 (Tex. 2010) (orig. proceeding) (citation omitted).

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Inferences: A Hypothetical

- ▶ Sale of a building by one business to another; seller was original owner.
- ▶ Purchaser discovers termite damage.
- ▶ Purchaser also discovers masking repairs.

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