

# The Use of Inferences at Trial and on Appeal

CHAD BARUCH  
JOHNSTON TOBEY BARUCH PC

1

## Special Thanks

- ▶ David Fisher and Jefferson Fisher
- ▶ Texas Tech University Law Review
- ▶ Coyt Johnston

2

## “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.

3

## “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).

5

## 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.

6

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](https://utcle.org/elibrary)

Title search: The Use of Inferences at Trial and on Appeal

Also available as part of the eCourse

[2023 eConference on State and Federal Appeals](#)

First appeared as part of the conference materials for the  
33<sup>rd</sup> Annual Conference on State and Federal Appeals session  
"Inference Stacking"