

**352 PRESUMPTIONS: EXISTENCE OF BASIC FACT UNCONTRADICTED;  
EVIDENCE INTRODUCED FROM WHICH NONEXISTENCE OF  
PRESUMED FACT MAY BE INFERRED**

There is no dispute that (state the basic fact). From these facts, a presumption arises that (state the presumed fact). But there is evidence in the case which may be believed by you that (state the negative of the presumed fact). You must resolve the conflict. Unless you are satisfied by the greater weight of the credible evidence, to a reasonable certainty, that it is more probable (state the negative of presumed fact), you must find that (state the presumed fact).

**COMMENT**

This instruction was approved by the Committee in 1977. The comment was updated in 1989, 2010, and 2012. This instruction was revised in 2002 to conform the language regarding the burden of proof to the Committee's 2002 revisions to Wis. JI-Civil 200 and 205, the instructions on the civil burdens of proof. See Wis. JI-Civil 200, Comment.

This instruction is designed for the case where there is no conflict in the basic facts, but there is evidence from which the contrary of the presumed fact may be inferred.

For the use of this instruction in a trial involving a claim of self-defense under Wis. Stat. § 895.62, see Wis JI-Civil 2006.2.

This form is proper, for example, to state the presumption that a letter, properly addressed, stamped, and mailed with sender's return address thereon, is received by the addressee in the case where there is also evidence that the letter was not received. For other examples, see Wis JI-Civil 1600, Agency: Driver of Automobile; Wis JI-Civil 1026.5, Bailment: Negligence of Carrier Presumed.

For the presumption of due care by a deceased person, see Wis JI-Civil 353.

For the presumptions to be given to billing statements and invoices for health care services in Wis. Stat. § 908.03(6m)(bm), see Wis JI-Civil 1756 and 1757.