**02.21B CLOSING INSTRUCTIONS – PRESUMPTIONS – REBUTTAL EVIDENCE**

You have heard evidence about (insert fact that the party relying on the presumption has tried to prove). If you decide that this underlying fact is more likely true than not true, you may infer from this fact the following additional fact: (insert presumed fact). But you are not required to do so. If you decide the underlying fact is not true, you should evaluate all the evidence according to my instructions in order to decide whether it is true that: (insert presumed fact).

 Use Note

This instruction should be given when a party relying on a presumption has offered sufficient evidence for the jury to find the basic or proved fact, and the other party has responded with sufficient evidence to rebut the presumed fact. If no rebuttal evidence is offered, then 02.21A should be used.

This instruction should not be given at the outset of the instructions, but should accompany the instructions on the substantive issue to which it is addressed.

 Comment

Alaska R. Evid. 301(a) requires the court to tell the jury about a permissible inference once rebuttal evidence is offered to show the non-existence of the presumed fact. The burden of offering rebuttal evidence is satisfied "by the introduction of evidence sufficient to permit reasonable minds to conclude that the presumed fact does not exist." Alaska R. Evid. 301(a).

Alaska R. Evid. 301(a) indicates that the word "presumption" should not be used before the jury, and this instruction avoids the word.