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**Conclusive (Irrebuttable) Presumptions:** A conclusion is an assumption that cannot be contradicted by evidence to the contrary. [See *Alvarado v. J.C. Penney* (D KS 1989) 713 F.Supp. 1389, 1392]

admission of evidence contrary to the ultimate fact is a waste of the jury's time. [See *Yates v. Evatt* (1991) 391, 406, 111 S.Ct. 1884, 1893-1894, fn. 10 (disapproved on another ground in *Estelle v. McGuire* (1991) 502 US 62, 72, 112 S.Ct. 475, 482, fn. 4)]

*Cross-refer:* State law presumptions are governed by FRE 302 and discussed separately; see ¶8:5010 ff.

- a. [8:4991] **Rules of substantive law:** Conclusive presumptions are not rules of evidence but *rules of substantive law*. [*Legille v. Dann* (DC Cir. 1976) 544 F2d 1, 5]

They are based on Congress' determination that no contrary evidence should be allowed as a matter of *overriding social policy*. [See *Usery v. Turner Elkhorn Mining Co.* (1976) 428 US 1, 22, 96 S.Ct. 2882, 2895—miners suffering from black lung disease conclusively presumed to be totally disabled]

- b. [8:4992] **Effect of use of term "deemed":** A statute or other rule of law which provides that a fact or group of facts should be "deemed" creates a conclusive presumption. [*Municipal Resale Service Customers v. Federal Energy Regulatory Comm'n* (6th Cir. 1995) 43 F3d 1046, 1053]

- c. **Constitutional limitations**

- (1) [8:4993] **Conclusive presumptions affecting protected interests:** A conclusive presumption may be defeated where its application would impair a party's constitutionally-protected liberty or property interests. In such cases, conclusive presumptions have been held to violate a party's due process and equal protection rights. [*Vlandis v. Kline* (1973) 412 US 441, 449, 93 S.Ct. 2230, 2235; *Cleveland Bd. of Ed. v. LaFleur* (1974) 414 US 632, 639-640, 94 S.Ct. 791, 796; *Stanley v. Illinois* (1972) 405 US 645, 656, 92 S.Ct. 1208, 1215—presumption under Illinois law that unmarried fathers are unfit violates due process]

- (2) [8:4994] **Presumptions affecting nonprotected interests:** Conclusive presumptions that do not deprive a party of *constitutionally-protected interests* only violate due process if the statute or regulation "manifests a *patently arbitrary* classification, utterly *lacking in rational justification*." [*Weinberger v. Salfi* (1975) 422 US 749, 771-772, 95 S.Ct. 2457, 2470 (emphasis added); *Dean v. McWherter* (6th Cir. 1995) 70 F3d 43, 46; *Usery*