6-30/205.30 Exemption Claimed for Support of Debtor and Debtorâ€™s Family

The debtor may claim as exempt the portion of the debtor's earnings which is necessary for the support of the debtor or the debtor's family supported in whole or in part by the debtor unless the debt is incurred for personal services rendered by any employee or former employee of the debtor or is incurred by the debtor, or his or her spouse or family for the common necessaries of life. In determining whether the debtor's earnings are necessary for the use of the debtor's family, the circumstances of each case and the position of the family involved must be considered. It has been held that items of expense for recreation, music lessons and insurance for the debtor's wife and family were for necessaries. (Sanker v. Humborg, 48 CA 2d 205)

Monthly expenses expended on behalf of the debtor's minor daughter attending university have been held to be necessaries. (Diamond v. Bent 157 CA 2d Supp. 857) The term "common necessaries of life" has a different meaning than above. If the plaintiff's cause of action is based on an obligation incurred for "common necessaries of life," only that portion of the debtor's earnings included in the automatic exemption is exempt.

Common necessaries of life as used in (rechaptered as CCP 706.051) means those things which are commonly required by persons for the sustenance of life regardless of their employment or status. It must be such an article that in the hands of anyone, it is to be regarded universally, or substantially so, as necessary to sustain life. (Los Angeles Finance v. Flores, 110 CA 2d Supp. 850)