

**In re Marriage of Scheppers (1/26/01 – 86 Cal.App.4<sup>th</sup> 646)**

The issue in this case was whether Wife's receipt of life insurance proceeds constituted "income" for child support.

Wife received life insurance proceeds as a result of the oldest child's suicide. Husband contended that these proceeds should be added to Wife's available income for support.

The court concluded that the proceeds themselves do not constitute income for the purposes of child support for the following reasons:

1. Life insurance proceeds are not included in the statutory definition of income for the purposes of child support (Family Code §4058).
2. Case law has established that testamentary gifts are not considered income for support.
3. Family Code §4058 includes a number of insurance benefits, but does not include life insurance proceeds.
4. Life insurance benefits received on account of death are excluded from federal income tax – while not conclusive, the definition of income for support was "lifted straight from" the definition of income for income tax.
5. Life insurance proceeds do not fit the traditional definition of a recurring benefit derived from labor, business or property.
6. Including a lump sum amount is impractical since it will not recur.
7. The Louisiana court determined that life insurance proceeds should not be included as income for child support purposes.

The court, however, determined that a 10% rate of return could be imputed to the life insurance proceeds and included in Wife's income for support purposes.