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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

ALISA DERGHAZIAN,

Plaintiff and Respondent,

v.

HAGOP DERGHAZIAN,

Respondent and Appellant.

B281103

(Los Angeles County  
Super. Ct. No. KD044381)

APPEAL from an order of the Superior Court of Los Angeles County, Nancy Ramirez, Commissioner. Affirmed.

Lipton & Margolin, Hugh A. Lipton and Brian G. Magruder, for Respondent and Appellant.

No appearance by Petitioner and Respondent.

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Hagop Derghazian moved for an order modifying his child support payment and for a determination of the amount of his arrearages. The trial court was unable to determine the amount in arrears because Hagop<sup>1</sup> failed to provide a monthly breakdown detailing the amounts ordered and amounts paid; however, the court increased his monthly support payment from \$700 to \$1,800. Hagop appeals from this order contending the court erred by failing to permit his own cross-examination through his attorney of record.<sup>2</sup> We affirm.

### **FACTUAL AND PROCEDURAL SUMMARY**

Hagop and his ex-wife, Alisa Derghazian, share one child. In 2002 the parties stipulated Hagop would pay \$700 per month in child support payments. According to Hagop, these payments were garnished from his paycheck beginning in September of 2014. Both Hagop and Alisa have since remarried, and Hagop has two children from his remarriage.

After their child turned 18 years old, Hagop filed a request for an order modifying his child support payments and to

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<sup>1</sup> In light of their common surname, we refer to the parties by their first names to avoid any confusion to the reader. No disrespect is intended by this informality.

<sup>2</sup> Alisa declined to file a respondent's brief. When the respondent fails to file an opening brief, the court is under no duty to seek out points of law in support of the judgment. (*In re Janette H.* (1987) 196 Cal.App.3d 1421, 1426.) However, the appellant still bears the affirmative burden of establishing error, and respondent's failure to contest the appeal does not require an automatic reversal. (*Ibid.*)

determine the amount of his arrearages. At a hearing on the motion the Los Angeles County Child Support Services Department (the County)<sup>3</sup> asserted Hagop's arrearages totaled \$161,094.83. The County requested that the court take the motion for a calculation of arrearages off calendar because Hagop failed to file a breakdown of his payment history pursuant to Family Code section 17526, subdivision (c).<sup>4</sup> The court agreed and took the motion off calendar.

The court proceeded with a hearing on Hagop's request to modify his support payment. Hagop sought to maintain his monthly payment of \$700, while Alisa requested an increase to \$1,800. The court called Hagop as a witness and examined him about his monthly income and expenses. During Alisa's cross-examination of Hagop, the court announced it was ready to render a decision. The County asked to make closing argument, which the court allowed.

Following the County's argument and the court's concomitant order setting the amount of his monthly payment, Hagop moved for a mistrial on the ground that he was not invited to "cross-examine" himself. The court ordered an increase in

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<sup>3</sup> Each county is obligated to maintain a local child support agency pursuant to Family Code section 17400. The department is responsible for enforcing child support obligations and determining the amount of a parent's arrearages. (Fam. Code, §§ 17400, subd. (a), 17526.)

<sup>4</sup> "Any motion to determine arrearages filed with the court shall include a monthly breakdown showing amounts ordered and amounts paid, in addition to any other relevant information." (Fam. Code, § 17526, subd. (c).)

Hagop's arrears support payment to \$1,800 without addressing his motion for a mistrial. The order was without prejudice to either party filing a complete motion to determine the amount in arrears.

## DISCUSSION

Hagop contends the trial court violated his due process rights when it ordered an increase in his child support payments without first allowing his lawyer to question him in order to rebut Alisa's testimony.<sup>5</sup> We disagree.<sup>6</sup>

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<sup>5</sup> Hagop's appellate brief does not suggest what this rebuttal evidence might have been.

<sup>6</sup> Hagop asserts the support order was appealable "because no further judicial action on the part of the court is necessary for a final determination of the rights of the parties." The issue is not so simple and, as previously noted, we do not have the benefit of a respondent's brief. Notwithstanding Alisa's failure to file an opening brief, we are bound to address the issue of appealability whenever a doubt exists as to whether the trial court has entered an appealable order. (*Harrington-Wisely v. State of California* (2007) 156 Cal.App.4th 1488, 1494.)

In general, post-judgment orders compelling payment of support arrearages are directly appealable. (*In re Marriage of Brinkman* (2003) 111 Cal.App.4th 1281, 1287 [orders relating to child support arrears are appealable]; *In re Marriage of Tibbett* (1990) 218 Cal.App.3d 1249, 1250, fn. 3 ["order determining arrearages and compelling payment of support is an appealable order"]; see *County of Ventura v. Tillett* (1982) 133 Cal.App.3d 105, 111, disapproved on other grounds in *County of Los Angeles v. Soto* (1984) 35 Cal.3d 483, 492, fn. 4 [temporary order modifying child support payment appealable].) But under the

Under Evidence Code section 775, the trial court may directly examine a witness on its own motion. Any party to the action may object to the questioning and cross-examine the witness. (Evid. Code, § 775.)

As noted, the court called Hagop as a witness. While Alisa cross-examined Hagop, the court interjected that it was ready to render a decision. The County interrupted, requesting an opportunity to make closing argument. Once the trial court concluded its questioning, Hagop's counsel was free to request cross examination of Hagop. Hagop did not do so. Instead, it was only after the County's argument and the court's concomitant support order that Hagop moved for a mistrial on the ground that the court failed to invite his counsel to cross-examine him.

"It is a well-recognized proposition that '[a] person is free to waive any or all procedures required and designed to safeguard fundamental rights' and that a person may waive the right of cross-examination. [Citation.] Such waiver may be express, i.e., by stipulation of the parties, or implied. [Citation.] It is also a fundamental principle of appellate review that objections must be raised in the trial court to preserve questions for review. Appellate courts will not consider objections that were not presented to the trial court. [Citation.]" (*In re Marriage of S.* (1985) 171 Cal.App.3d 738, 745.)

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one final judgment rule, an order that fails to dispose of all claims between the litigants is not appealable. (*Nguyen v. Calhoun* (2003) 105 Cal.App.4th 428, 436.) It is questionable whether the order in this case constituted a final determination of Hagop's support arrearages. However, because the subject order relates to child support arrears, we will presume it is appealable and proceed to the merits of Hagop's claim.

As we read the record, Hagop forfeited this right by failing to lodge a timely objection. Once Hagop became aware of facts constituting a possible irregularity in the proceedings, he was obligated to promptly bring such matters to the attention of the court. (*In re S.B.* (2005) 130 Cal.App.4th 1148, 1159; *Weathers v. Kaiser Foundation Hospitals* (1971) 5 Cal.3d 98, 103.) An objection is generally untimely if it is made after the conclusion of argument. (*Warner Construction Corp. v. City of Los Angeles* (1970) 2 Cal.3d 285, 303 [objection raised in motion for mistrial at the conclusion of argument was untimely].) “Any other rule would permit a party to play fast and loose with the administration of justice by deliberately standing by without making an objection of which he is aware. [Citation.]’ [Citation.]” (*In re S.B.*, at p. 1159.)

## **DISPOSITION**

The order is affirmed. Respondent may recover her costs on appeal, if any. (Cal. Rules of Court, rule 8.278(a)(2).)

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MICON, J.\*

We concur:

WILLHITE, Acting P. J.

COLLINS, J.

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\*Judge of the Los Angeles Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.