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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION TWO

In re the Marriage of
AMBERWREN and
JEFFREY LEIB.

B289050

(Los Angeles County
Super. Ct. No. BD618771)

AMBERWREN LEIB,

Respondent,

v.

JEFFREY LEIB,

Appellant.

APPEAL from an order of the Superior Court of Los Angeles County. Dean H. Hansell, Judge. Affirmed.

Harris/Thaler Law Corporation and John H. Thaler for Appellant.

Alpert Law Group, Jeffrey Alpert and Dean Asher for Respondent.

In this marriage dissolution proceeding, appellant Jeffrey Leib appeals the trial court's order awarding respondent Amberwren Leib temporary spousal support in the monthly amount of \$10,270.¹ Jeffrey claims the trial court violated his due process rights in several ways. Most notably, Jeffrey argues he had no notice the trial court planned to consider the issue of temporary support at a December 2017 hearing. Jeffrey also asserts the court improperly ignored evidence he presented prior to and at the hearing.

As discussed below, our review of Jeffrey's appeal is hindered by an inadequate record and insufficient briefing. Nonetheless, based on the record and briefing before us, we conclude the trial court properly awarded temporary support, which order the parties could always revisit. We also conclude Jeffrey's challenge to the trial court's later-issued sanctions order is not properly before us in this appeal. We affirm.

BACKGROUND

Jeffrey and Amberwren were married in May 2010. Almost five years later, in April 2015, Amberwren filed for divorce.

1. Amberwren's Request for Order

On March 6, 2017, Amberwren filed a request for order and supporting declarations seeking both spousal support and attorney fees. That same day, Amberwren also filed an income and expense declaration. Her income and expense declaration is not in the record on appeal. The hearing on Amberwren's request for order was initially scheduled for April 10, 2017. However, on March 30, 2017, Amberwren filed an amended request for order

¹ "We will refer to the parties by their first names for purposes of clarity, and not out of disrespect." (*In re Marriage of Olsen* (1994) 24 Cal.App.4th 1702, 1704, fn. 1.)

and supporting declarations again seeking spousal support and attorney fees and adding a request for costs related to a forensic accounting and business evaluation. The hearing on the amended request for order was scheduled for May 9, 2017. Because it superseded the March 6 request for order, we refer to Amberwren's March 30 amended request for order as simply the request for order.

In her request for order Amberwren did not specify whether she sought permanent or temporary spousal support. However, the request for order asked the court to enter a "judgment" for spousal support. Amberwren also used Judicial Counsel form FL-157, which lists the elements relevant to a permanent spousal support order under Family Code section 4320. In her supporting declaration, Amberwren detailed the alleged physical and emotional abuse she endured while married to Jeffrey, which she claimed took a significant toll on her. Based on the alleged domestic violence, Amberwren sought spousal support "for at least five years or until I am done with my treatment for depression and anxiety and able to support myself, whichever is later." She asked the court to take live testimony on her request for support and stated her intended witnesses for the hearing included herself and Jeffrey.

2. August 28, 2017 Hearing

For reasons not reflected in the record on appeal, the hearing on the request for order was not held in April or May 2017. At the end of an August 28, 2017 hearing,² the trial court

² The primary issue heard at the August 28 hearing was Amberwren's motion to recuse Jeffrey's counsel. The appellate record does not include documents related to this motion and it does not appear relevant to the issues on appeal.

briefly addressed the still-pending request for order. The court confirmed no support orders had been made in the case to date. The court and counsel discussed the main issues related to Amberwren's request for spousal support, which appeared to be the length of the marriage, Amberwren's allegations of domestic violence, and Jeffrey's claimed credits for payments made during the pendency of these proceedings. The trial court directed the parties to file no later than September 15, 2017, "updated income and expense declarations and briefs, no longer than three pages each, on the issue of attorney's fees and forensic accountant fees."

Also during the August 28 hearing, while discussing a future evidentiary hearing date for the issue of spousal support, Jeffrey's counsel John Thaler explained his wife was pregnant and due to deliver their first child that December. Thaler requested a November hearing date. However, November dates did not work for Amberwren's attorney. Thus, with Thaler's approval, the trial court set the evidentiary hearing for Friday, December 1, 2017. The court cautioned if the hearing did not conclude on that date, the parties and counsel would have to return to court. But the court seemed to recognize if Thaler's wife went into labor, the hearing would be continued, stating if counsel was "off at, you know, Cedars or wherever, we will have to continue it until—." The court did not complete its sentence.

3. Jeffrey's September 2017 Filings

On September 18, 2017, and apparently in response to a trial court order, Jeffrey filed a brief entitled, "Respondent Jeffrey Leib's Brief Regarding the Establishment of a Temporary Support Order," and a supporting declaration with exhibits (September brief). The September brief began, "Pursuant to the Court's Order of August 28, 2017, Respondent Jeffrey Leib

submits the following Points and Authorities regarding the following issues: a.)Should the court award temporary support, and if so, to whom and for how much? b.)Should the Court order [Jeffrey] to provide attorney's fees to [Amberwren], and if so, for how much? c.)Should the Court order [Jeffrey] to provide any or all of the fees requested by [Amberwren] for the retaining of a forensic accountant?" The record on appeal does not include the August 28, 2017 order referenced in Jeffrey's September brief.

In the September brief, Jeffrey stated the issue of temporary support was "inextricably intertwined with the outcome of the evidentiary hearing" scheduled for December 1, 2017. Jeffrey also argued Amberwren failed to demonstrate she was in need of support, hid the fact she had been working and making an income, failed to support her domestic violence allegations, and was the cause of her own alleged financial troubles. Jeffrey also claimed he was unable to pay any support to Amberwren because of his own health issues and support obligations from a previous marriage. He argued Amberwren could earn more than he could. Jeffrey included a supporting declaration and exhibits with his September brief. The exhibits included three pages pulled from Wells Fargo bank statements dated December 2014, January 2015, and February 2015; spreadsheets listing alleged payments Jeffrey made toward Amberwren's support between mid-2014 and December 2015; and a "claim processing record" listing Jeffrey's medical charges between February and August 2017.

Also on September 18, 2017, Jeffrey filed an income and expense declaration in which he stated his average monthly income was \$4,200 and his estimated average monthly expenses were \$6,350. Jeffrey estimated Amberwren's gross monthly

income was “\$70,0000.00” [sic] based on her “experience, training, and past employment.” Jeffrey stated his income had decreased significantly in the past 12 months because of “Severe Illness and Loss Revenue.” He listed over \$100,000 in debt.

Amberwren filed neither an updated income and expense declaration nor a brief in September as directed by the trial court.

4. December 2017 Hearings

a. *December 1, 2017*

The December 1, 2017 evidentiary hearing was held as scheduled. Amberwren, her counsel, and Jeffrey’s counsel Thaler appeared. Jeffrey was not present. At the start of the hearing, counsel for Amberwren stated, “For purposes of today, your honor, we intend to move forward solely with our request for pendente lite support.” Counsel indicated he had an updated income and expense declaration for Amberwren, which he provided to the court and Thaler. The court and counsel agreed Amberwren’s updated income and expense declaration was not materially different from her income and expense declaration filed nine months earlier in March 2017. The trial court also indicated Thaler could rely on Amberwren’s earlier-filed income and expense declaration if he preferred. As with Amberwren’s March 2017 income and expense declaration, her December 2017 income and expense declaration is not in the record on appeal.

After hearing argument regarding discovery disputes, the trial court stated it “want[ed] to go forward today on spousal support.” However, the court explained if further discovery revealed “a material change in [Amberwren’s] financial condition,” the court would permit Jeffrey “to reopen this issue on pendente lite support and [would] seriously consider 271

attorney's fees with it." The trial court relied on Amberwren's counsel's representation that whatever might be discovered or produced later would not contradict the facts as presented and available at the December 1 hearing.

Thaler strenuously objected to the hearing in general. He stated, "We have two huge problems with going forward." "The first one is on the issue of whether or not this is even temporary support. . . . [¶] What they were actually asking for was a permanent order. That's what it actually said in the papers. And that makes a big difference to what the burden is and what the information is." Although Thaler noted he had prepared and provided Jeffrey's information and brief in September "because that's what your honor asked for," Thaler criticized Amberwren's counsel for not advising Jeffrey or Thaler that Amberwren would be seeking only temporary support, and nothing of a more permanent nature based on alleged abuse, at the December 1 hearing. Later, Thaler again stated that while he was prepared to address Amberwren's allegations she was unable to work because Jeffrey had abused her, he was not prepared to address Amberwren's "entirely different" request for temporary spousal support allegedly made for the first time at the December 1 hearing.

Thaler also noted his concern with Amberwren's financial information. He claimed she had been paid under the table for periodic work done during the marriage and, therefore, her bank statements would not reflect that income. Again, the court noted the contemplated support was pendente lite and Thaler's concerns would be an issue at trial. The court indicated it would use a dissomaster so that everyone could see the court's calculations.

Before getting to the calculation, however, the trial court asked Thaler why Jeffrey was not present for the hearing. The court noted the hearing concerned spousal support, which implicated Jeffrey's income. Thaler insisted Jeffrey was not necessary for the hearing, stating, "I don't need my client. He's not required to be here and I do not need him to handle this matter," and "I don't need my own separate witnesses for this at this point." Thaler explained Amberwren was all that "was going to be necessary to solve this problem." He explained he would demonstrate Amberwren had already received all the support to which she was entitled. The trial court stated, "That's going to be your choice." Amberwren's counsel argued Jeffrey was required to attend the hearing as a witness, which had been noted in Amberwren's declaration in support of her request for order. In addition, Amberwren's counsel had documents such as bank statements and profit and loss statements he had intended Jeffrey would authenticate at the hearing.

After discussion concerning what properly should occur at the December 1 hearing, the trial court stated it would proceed with the issue of temporary spousal support. The court held both that the request for order encompassed temporary spousal support and, citing Family Code section 217, Jeffrey was required to be at the hearing. Other than objecting on relevance grounds, Thaler did not object to admitting into evidence most of Amberwren's exhibits, which included profit and loss statements, balance sheets and bank statements for Jeffrey's businesses as well as credit card statements and Jeffrey's September 18 income and expense declaration. However, Thaler unsuccessfully objected to the admission of an e-mail Amberwren had received from Jeffrey and which Amberwren had produced in discovery.

Amberwren stated the e-mail gave a “global tally of what [she and Jeffrey] spent monthly.” Thaler claimed the e-mail was not timely produced and if it had been timely produced the documents Amberwren produced were out of order and some were upside down. Thaler also made relevance and foundation arguments that the trial court rejected. The exhibits are not in the record on appeal.

The trial court also ruled on some of Jeffrey’s evidentiary objections to Amberwren’s declaration in support of her request for order. Eventually and at Amberwren’s counsel’s suggestion, the trial court deferred ruling on all of the objections so that Amberwren could testify.

Amberwren testified concerning her income and expense declaration. Although Amberwren had worked prior to marrying Jeffrey, she stated during the marriage she was expected not to work outside the home. She testified that during their marriage, Jeffrey’s monthly income fluctuated between approximately \$10,000, \$30,000, or more each month and Jeffrey paid the bills. She testified their monthly expenses were approximately \$25,000 to \$30,000, and they carried some debt on their joint credit cards. Amberwren had access to financial information for Jeffrey’s companies and for some time she kept the books for those companies. Amberwren also explained Jeffrey paid some amount of spousal or child support to his first ex-wife. Amberwren said after she filed for divorce, Jeffrey stopped paying her bills. However, following their separation, Jeffrey paid Amberwren some monies from the sale of one of their homes.

Thaler pressed Amberwren for information concerning monies she had owed to the Internal Revenue Service or Franchise Tax Board. Thaler argued the information was

relevant to why and when Amberwren did not work. After argument concerning the relevancy if any of that line of questioning, the trial court concluded the hearing for the day.

At the close of the hearing, the trial court stated, “Since we’re in trial, we’re going to continue from day-to-day. You will return on Monday at 2:30. [¶] And Mr. Leib will need to be here on Monday at 2:30.” Thaler reminded the court that he and his wife were expecting their first child at any moment and neither he nor Jeffrey could be in court the following Monday. Because they were in trial, however, the court insisted the case proceed and again stated Jeffrey must be present. On the court’s suggestion, Thaler agreed to ask somebody else to appear for him but he requested more than just the weekend to make those arrangements. The court agreed and scheduled the hearing to continue six days later on the following Thursday, December 7, 2017. Thaler was to arrange for another attorney to appear and Jeffrey was “direct[ed]” to “be present that day.”

b. *December 7, 2017*

The continued evidentiary hearing was held as scheduled on December 7, 2017. Although Thaler had arranged for Attorney Howard Lynch to appear in his place, Jeffrey did not appear. Lynch repeatedly stressed he was there only to make a special appearance and to request a continuance. Lynch was not prepared to argue the merits of the matter or to participate in an evidentiary hearing. He stated Thaler had contacted him only the day before and he had “no knowledge of the basic facts in this case.” On Thaler’s behalf, Lynch filed “a supplement to his motion in limine regarding whether or not the court could proceed on hearing the issue of temporary support as opposed to permanent support.”

The trial court did not fault Thaler for not being at the hearing. However, the trial court was very displeased with Jeffrey's absence and set an order to show cause why sanctions should not be imposed against him. Lynch explained Thaler diligently but unsuccessfully had been trying to contact Jeffrey, who Thaler believed was in Mexico. The court noted Jeffrey's absence created an obstacle to proceeding with the hearing as scheduled and Amberwren should not be punished as a result. The court was also troubled Lynch was not prepared to proceed on the merits, noting Thaler "knew well that this was going to be a continuation of the evidentiary hearing today and also that his client was to be here."

In light of both Thaler's and Jeffrey's absences, Amberwren's counsel was not opposed to continuing the hearing but requested the court issue a temporary order that could be revisited at the continued hearing. Counsel argued the appropriate calculation for such an order would be to input a monthly income amount of zero for Amberwren and \$30,000 for Jeffrey, minus the support amount Jeffrey owed to his first ex-wife. Although not prepared to argue the merits, Lynch suggested the trial court instead use the income Jeffrey had listed on his income and expense declaration and Lynch did not agree with attributing zero income to Amberwren. The court refused, citing Amberwren's testimony at the initial hearing and noting, "The point of [Jeffrey] being here today was to be able to question him concerning that. [¶] The only testimony right now is from [Amberwren]."

The court recognized "a prejudice in proceeding or in delaying this right now" and decided to proceed with making a pendente lite support order. The trial court did not want to

“allow somebody to disobey an order . . . and then benefit from that.” Although the court believed Amberwren’s estimate of \$30,000 for Jeffrey’s monthly income was a bit outdated (because it came from the year 2016) and more evidence supported a monthly income finding of over \$41,000, the court decided to “take a more cautious approach on that and do it at \$30,000.” In addition, counsel for Amberwren noted Amberwren had received a small amount of income and, therefore, some income should be attributed to her. Thus, the court input \$30,000 for Jeffrey’s income, with a \$500 credit for his child support obligation from another marriage, and \$100 for Amberwren’s income. Based on those figures, the dissomaster calculated and the trial court ordered temporary monthly spousal support of \$10,270 effective December 1, 2017. The trial court denied Lynch’s request to stay implementation of the order pending a writ petition. The court noted “all parties’ rights are reserved as to rearguing these numbers.”

The trial court continued the hearing to February 15, 2018, and set the order to show cause regarding sanctions against Jeffrey for the same date. The court stated its support order was “ordered on a temporary basis subject to rights of both parties to reargue this point when we get back together.”

5. February 2, 2018 Temporary Spousal Support Order

On February 2, 2018, the trial court issued its formal order following the December hearings awarding Amberwren \$10,270 in temporary monthly spousal support. The court’s order stated, “The award is made without prejudice,” and the matter was continued for further hearing on February 15, 2018.

6. February 15, 2018 Sanctions Order

At the start of the February 15, 2018 continued hearing, Amberwren and her counsel were present, but Jeffrey was not. However, Amberwren's attorney stated he had seen Jeffrey that morning in the courthouse filing documents with the clerk. The trial court indicated it had received three separate documents that morning, filed by Jeffrey. One was a substitution of attorney stating Jeffrey was proceeding in propria persona. Another document was a notice of bankruptcy filing and automatic stay indicating Jeffrey had filed for bankruptcy the day before. Finally, the third document constituted Jeffrey's objections both to the hearings on temporary spousal support as well as to the court's order awarding temporary support. Counsel for Amberwren had seen none of the newly filed documents. Although the automatic bankruptcy stay did not encompass support proceedings, counsel for Amberwren requested time to allow him to seek a broad waiver of the stay from the bankruptcy court so that the entirety of the underlying proceedings could proceed. The trial court continued the hearing a few months in order to give Amberwren's attorney time to seek relief from the bankruptcy stay.

At some point a little while later that same morning, the court located Jeffrey and reconvened the hearing with Jeffrey present and appearing in propria persona. The parties addressed the court's order to show cause regarding sanctions for Jeffrey's failure to appear in December. After hearing argument, the trial court imposed sanctions in the amount of \$500 against Jeffrey. At the hearing, Jeffrey also raised the issue of his objections to the court's temporary support order, which he had filed earlier that day. However, the court stated those objections were

untimely and not at issue for that hearing. Moreover, counsel for Amberwren had not seen the objections. The hearing concluded after the court printed a copy of the temporary support order for Jeffrey, who had not yet seen the order.

7. Appeal and Supplemental Briefing on Appeal

On March 26, 2018, Jeffrey appealed the trial court's February 2, 2018 order awarding temporary spousal support.

After briefing but before oral argument, we requested further briefing on two issues, namely (1) on what basis would the parties have believed the trial court was going to consider a temporary support order—or, alternatively, a permanent support order—at the hearing that began on December 1, 2017; and (2) whether the parties believed the family court was going to consider a permanent or temporary support order, why would a party appearing at the December 1, 2017 hearing not be prepared to address his or her need for or ability to pay spousal support?

DISCUSSION

Jeffrey argues that, in awarding temporary spousal support, the trial court made a number of errors which together or alone violated his right to due process. Specifically, Jeffrey claims he was not notified the court would consider temporary spousal support at the December 1 hearing. Jeffrey also argues other procedural deficiencies—such as Amberwren's failure to file a brief addressing temporary support and the court's refusal to continue the second day of hearing until Thaler could be present—resulted in a violation of his due process rights. Finally, Jeffrey claims the trial court improperly refused to review his September 2017 brief and supporting documents addressing temporary spousal support. We are not persuaded by Jeffrey's arguments.

1. Applicable Law and Standard of Review

Family Code section 3600 permits the trial court to order one spouse to support the other pending final resolution of their marital dissolution case. Temporary spousal support differs from permanent spousal support. “ ‘Awards of temporary spousal support do not serve the same purposes, nor are they governed by the same procedures, as awards for permanent spousal support.’ [Citation.] ‘Temporary spousal support is utilized to maintain the living conditions and standards of the parties in as close to the status quo position as possible pending trial and the division of their assets and obligations.’ [Citation.] On the other hand, ‘[t]he purpose of permanent spousal support is not to preserve the preseparation status quo but to provide financial assistance, if appropriate, as determined by the financial circumstances of the parties after their dissolution and the division of their community property.’ [Citations.] [¶] Awards of temporary spousal support rest within the broad discretion of the trial court and may be ordered in ‘any amount’ (§ 3600) subject only to the moving party’s needs and the other party’s ability to pay. [Citation.] Permanent support, by contrast, is constrained by numerous statutory factors set out in section 4320.” (*In re Marriage of Murray* (2002) 101 Cal.App.4th 581, 594, fn. omitted.)

An order awarding temporary spousal support is an appealable order. (*In re Marriage of Samson* (2011) 197 Cal.App.4th 23, 26, fn. 2.) We will reverse an award of temporary spousal support only “on a showing of clear abuse of discretion.” (*In re Marriage of Wittgrove* (2004) 120 Cal.App.4th 1317, 1327.) “ ‘We cannot substitute our judgment for that of the trial court, but only determine if any judge reasonably could have made such an order. [Citation.] Our review of factual findings is limited to

a determination of whether there is any substantial evidence to support the trial court's conclusions.' ” (*Ibid.*)

“ ‘A judgment or order of the lower court is presumed correct. All intendments and presumptions are indulged to support it on matters as to which the record is silent, and error must be affirmatively shown. This is not only a general principle of appellate practice but an ingredient of the constitutional doctrine of reversible error.’ ” (*Denham v. Superior Court* (1970) 2 Cal.3d 557, 564.) The appellant bears the burden of demonstrating error through an adequate record. (*Bennett v. McCall* (1993) 19 Cal.App.4th 122, 127.) Failure to provide an adequate record requires that the issues on appeal be resolved against the appellant. (*Maria P. v. Riles* (1987) 43 Cal.3d 1281, 1295–1296.) When the appellate record is devoid of necessary documents, the appellant cannot affirmatively demonstrate error by the trial court. (*Ketchum v. Moses* (2001) 24 Cal.4th 1122, 1140–1141.) “ ‘[I]f the record is inadequate for meaningful review, the appellant defaults and the decision of the trial court should be affirmed.’ ” (*Gee v. American Realty & Construction, Inc.* (2002) 99 Cal.App.4th 1412, 1416.)

Similarly, the appellant must provide record citations and legal authority to support his or her arguments on appeal. (Cal. Rules of Court, rule 8.204(a)(1).) The reviewing court is not required to scour the appellate record in search of facts supporting appellant's position, nor is the court required to conduct its own legal research to find law supporting the appeal. (*Alki Partners, LP v. DB Fund Services, LLC* (2016) 4 Cal.App.5th 574, 589–590.) When an appellant fails to support its appeal with appropriate citation, the reviewing court may

consider the unsupported issues or claims forfeited. (*Ibid.*; *Ewald v. Nationstar Mortgage, LLC* (2017) 13 Cal.App.5th 947, 948.)

2. No Abuse of Discretion or Violation of Due Process Rights

As an initial matter, we note the substantial obstacles with which we are faced in addressing Jeffrey's appeal. First, Jeffrey failed to include all relevant documents in the record on appeal. For example, although Amberwren filed two income and expense declarations, neither is in the record before us. Similarly, the exhibits admitted into evidence and relied upon at the December 1 hearing are not in the record on appeal. Thus, with significant portions of the relevant evidence missing, our review is hindered, making it difficult to assess Jeffrey's arguments. Second, Jeffrey failed to provide adequate record citations in his briefing on appeal. As noted above, when an appellant fails to provide an adequate record or to support his appeal with appropriate citation, the reviewing court may resolve issues against the appellant or consider the unsupported issues or claims forfeited. (*Maria P. v. Riles, supra*, 43 Cal.3d at pp. 1295–1296; *Alki Partners, LP v. DB Fund Services, LLC, supra*, 4 Cal.App.5th at pp. 589–590.)

Nonetheless, based on the incomplete record before us and insufficient briefing, we find no abuse of discretion on the part of the trial court and no violation of Jeffrey's due process rights. Despite Jeffrey's interpretation of Amberwren's request for order as requesting only permanent support, the trial court clearly expressed its intent to consider awarding temporary spousal support. This is confirmed by Jeffrey's September 2017 brief addressing temporary spousal support in response to the trial court's request for such briefing. Although Jeffrey stresses the

fact Amberwren did not also file such a brief, we do not find that dispositive. Moreover, Jeffrey's September 2017 brief stated the issue of temporary support was "inextricably intertwined with the outcome of the [December 1] evidentiary hearing." We conclude the trial court did not abuse its discretion or violate Jeffrey's due process rights when it considered an issue it said it would consider and which issue Jeffrey had briefed in advance and recognized as inseparable from issues he believed would be heard.

For the same reasons, we are not persuaded Jeffrey was blindsided at the December hearings or was justifiably unprepared to address temporary spousal support at them. Regardless whether Jeffrey believed permanent or temporary support would be considered at the December 1 evidentiary hearing, and as noted by the trial court, Jeffrey was required to attend the hearing. In the request for order, Amberwren stated she intended to call him as a witness. As the trial court repeatedly stated, Jeffrey's absence made it difficult to address the issues before the court. Similarly, although Thaler was excused from the December 7 hearing, Jeffrey was not and, in fact, was explicitly directed to appear. In addition, Thaler had agreed with extra time to arrange for another attorney to stand in for him, but he failed to brief his stand-in sufficiently to proceed with the hearing. Thus, the December 7 hearing was lopsided in that Jeffrey again was absent and his substitute counsel was unprepared. Recognizing its dilemma, the trial court chose to proceed with the hearing so as not to reward Jeffrey's continued absences and to avoid prejudice to Amberwren. Had Jeffrey been at the hearing he not only could have rebutted Amberwren's testimony when he saw fit, but he also could have

addressed his own documentation of alleged income and expenses and answered any questions the trial court and counsel might have had. Given the unusual circumstances, we cannot say the trial court abused its discretion in proceeding with the hearing.

Finally, and contrary to Jeffrey's repeated claims, we are not convinced the trial court "ignored" either Jeffrey's September brief addressing temporary support, his supporting declaration and documents, or his income and expense declaration. Indeed, at the December 7 hearing, the trial court referenced Jeffrey's income and expense declaration, stating there were "a lot of zeroes" on it and explaining the importance of Jeffrey being available to testify as to its accuracy. In essence, Jeffrey appears to claim the trial court believed Amberwren's testimony and evidence over Jeffrey's evidence. However, as the reviewing court we do not reweigh the evidence or assess the credibility of witnesses. (*Thompson v. Asimos* (2016) 6 Cal.App.5th 970, 981.) "A single witness's testimony may constitute substantial evidence to support a finding." (*Ibid.*) Moreover, because the record before us is incomplete, particularly with respect to the evidence relied on by the trial court, we presume the court properly assessed the evidence before it, including exhibits, declarations, and live testimony. (*Maria P. v. Riles, supra*, 43 Cal.3d at pp. 1295–1296.)

In sum, on the limited record before us, it appears the underlying proceedings were unduly and unnecessarily obfuscated by counsel for both sides as well as by Jeffrey himself. Discovery was unnecessarily complicated, Jeffrey repeatedly failed to appear at significant evidentiary hearings, and counsel simply were unable to work together. We conclude Jeffrey has not shown the trial court abused its discretion or violated his due

process rights in making its temporary support order. As the trial court repeatedly stated, its temporary support order was “ordered on a temporary basis” and the parties could reargue the numbers.

3. Sanctions Order

Finally, Jeffrey argues the trial court erred in imposing sanctions against him for his failure to appear at the December 7 hearing. However, because Jeffrey did not appeal the trial court’s sanctions order, we have no jurisdiction to hear his challenge to it. As stated in his March 26, 2018 notice of appeal, Jeffrey appealed from the trial court’s February 2, 2018 order, which was the court’s order awarding temporary spousal support. The court imposed sanctions almost two weeks later, on February 15, 2018. That order is not referenced in the notice of appeal and, as far as the record on appeal indicates, no separate notice of appeal from that February 15 order was filed. Additionally, in his briefing on appeal, Jeffrey provides no record citation or legal support for his argument and, in fact, seems to concede an order imposing sanctions of less than \$5,000 such as that at issue here is not directly appealable, thus providing further reasons for our rejection of his challenge to the February 15 sanctions order. (*Alki Partners, LP v. DB Fund Services, LLC*, *supra*, 4 Cal.App.5th at pp. 589–590; *Ewald v. Nationstar Mortgage, LLC*, *supra*, 13 Cal.App.5th at p. 948.)

DISPOSITION

The February 2, 2018 order is affirmed. Respondent
Amberwren Leib is entitled to her costs on appeal.

NOT TO BE PUBLISHED.

LUI, P. J.

We concur:

CHAVEZ, J.

HOFFSTADT, J.