

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2006-004064

07/28/2008

HON. MARK F. ACETO

CLERK OF THE COURT

M. Sahli

Deputy

PHOENIX CITY

MICHAEL R LAW

v.

JOSEPH M BELSON JR., et al.

ROBERT D WOOTEN

MINUTE ENTRY

This is a closed and completed case. Judgment was entered in this case in January 19, 2007. On June 22, 2007, Plaintiff filed a "Motion for Post-Judgment Relief". The opposition filed by Defendant on July 18, 2007, included a request for relief beyond that obtained in the judgment. More specifically, Defendant's opposition included a "Request for Order Requiring Appraisal of the Property and Sale to [Defendant]". Through an order issued on August 21, 2007, the Court denied Plaintiff's "Motion for Post-Judgment Relief". The Court also denied Defendant's request for relief beyond the relief granted in the judgment. In this regard, the Court stated:

In regard to Defendant's requests for a court-ordered appraisal of the property, and an order requiring Plaintiff to sell the property to him, the Court finds and determines that it would be inappropriate for the Court to enter any such orders. The Court declined in its prior ruling to order Plaintiff to sell the property

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to Defendant, and instead ordered Plaintiff to provide Defendant an opportunity...to purchase the home.

Ten months later, Defendant filed the currently pending "Petition for Issuance of Writ of Mandamus". Through this petition, Defendant again asks the Court to grant relief beyond the relief obtained through the judgment. Again, Defendant seeks an order mandating that Plaintiff sell the subject property to Defendant. More specifically, Defendant now seeks an order compelling Plaintiff "to direct the sale of the home in question to [Defendant] for...\$55,000.00 to \$65,000.00." The Court has reviewed the petition and Plaintiff's response thereto.

The Court makes note of the following:

- A "Petition for Issuance of Writ of Mandamus" is in essence a special action petition. Rule 1, Rules of Procedure for Special Actions. The filing of a special action petition normally initiates a new and separate cause of action. Defendant has cited no legal authority for the proposition that a party may file a special action petition in an already resolved case.
- Once entered, judgments become final and cannot be modified absent compliance with certain procedural rules, e.g., Rule 59 or Rule 60(c). Time limits apply to these rules. Strict criteria also apply. Defendant has not even attempted to comply with the requirements of any such rule.
- One may seek enforcement of a judgment in the original cause number. However, any suggestion that the relief now requested by Defendant is simply enforcement of the judgment is without merit. As noted above, before entering judgment, the Court considered whether to order Plaintiff to sell the subject property to Defendant and the Court declined to do so. In other words, Defendant is asking the Court to reconsider its earlier ruling and to grant more relief than the relief provided through the judgment.
- Even if the Court were to reach Defendant's petition on the merits, for reasons argued by Plaintiff, Defendant would not be entitled to mandamus relief.

Under the circumstances,

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IT IS ORDERED denying Defendant's "Petition for Issuance of a Writ of Mandamus".

/ s / HON. MARK F. ACETO

JUDICIAL OFFICER OF THE SUPERIOR COURT