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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

MASAYUKI ARIKAWA,

Petitioner,

v.

SUPERIOR COURT OF  
THE STATE OF CALIFORNIA  
FOR THE COUNTY OF  
LOS ANGELES,

Respondent.

NIKKEI SENIOR GARDENS  
INC. et al.,

Real Parties in Interest.

B283862

(Super. Ct. No. BC572603)

(John P. Doyle, Judge)

OPINION AND ORDER FOR  
PEREMPTORY WRIT OF  
MANDATE

THE COURT:

Petitioner Arikawa seeks to compel the respondent to enter judgment so that he can file a notice of appeal. We grant relief.

## **FACTS AND PROCEDURAL BACKGROUND**

On February 13, 2015 Arikawa filed a complaint against real parties, alleging wrongful termination of his employment and violation of various provisions of the Labor Code. Real parties moved for summary judgment. On May 11, 2016 the court made an “Order Granting Defendants’ Motion for Summary Judgment or, in the Alternative, Summary Adjudication of Issues as to Plaintiff’s Complaint.” In its order, the court stated that “Defendants shall have judgment in Defendants’ favor and against Plaintiff, together with their attorneys’ fees and costs of suit.”

On May 19, 2016 real parties served and filed a “Notice of Entry of Judgment or Order.” Petitioner thereafter filed a motion to strike or tax costs, which the trial court denied on October 31, 2016. Petitioner appealed from the October 31, 2016 order. The appeal was later dismissed.

On April 17, 2017 petitioner requested the trial court enter judgment. On June 30, 2017 the court denied petitioner’s request, ruling that its May 11, 2016 order granting summary judgment was the judgment.

## **DISCUSSION**

A party may not appeal from an order granting summary judgment. (*Davis v. Superior Court* (2011) 196 Cal.App.4th 669, 672; *Saben, Earlix & Associates v. Fillet* (2005) 134 Cal.App.4th 1024, 1030.) Rather, a party who wishes to appeal from a summary judgment must await the trial court’s entry of judgment. (Code Civ. Proc., § 437c, subd. (m)(1).)

The record in this case makes clear that the trial court has not entered an appealable judgment. The court’s May 11, 2016 summary judgment ruling is styled as an order, and real parties’ notice of entry filed on May 19, 2016 was titled a “Notice of Entry

of Judgment or Order.” Arikawa’s later attempts to pursue trial and appellate remedies requiring a judgment did not absolve the trial court of its duty to enter judgment to enable Arikawa to appeal.

### DISPOSITION

We have followed the procedures and given the notice described in *Palma v. U.S. Industrial Fasteners, Inc.* (1984) 36 Cal.3d 171, 177-183. There are no disputed factual issues, the legal error is clear, and the matter should be expedited. A peremptory writ in the first instance is thus appropriate. (Code Civ. Proc., § 1088; *Alexander v. Superior Court* (1993) 5 Cal.4th 1218, 1222-1223; *Ng v. Superior Court* (1992) 4 Cal.4th 29, 35.)

Let a peremptory writ of mandate issue directing the superior court to enter judgment in its case number BC572603. Petitioner Arikawa shall recover his costs in this proceeding.

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PERLUSS, P. J.,            SEGAL, J.,    MENETREZ, J. (Assigned)