

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN**

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**MICHAEL McWHINNEY,**  
**Plaintiff,**

**v.**

**Case No. 17-CV-1564**

**ELJA INC., BENIGNO RAFAEL ELEJALDE, and  
MARIA MERCEDES DE ELEJALDE,**  
**Defendants.**

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**RECOMMENDATION**

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The Honorable J.P. Stadtmueller referred to this court the plaintiff's motion that the defendants be found in contempt for failing to pay in accordance with the parties' settlement agreement. (ECF Nos. 20, 21.) The defendants have failed to respond.

Having reviewed the motion, the court finds no basis to recommend the defendants be found in contempt. The order approving the parties' settlement (ECF No. 19) specifically states what is to occur in the event of nonpayment: "IT IS FURTHER ORDERED that if Defendants fail to pay the payments provided for in the settlement agreement, after notice and seven (7) days to cure, Plaintiff shall file with the Court the stipulated entry of judgment attached as Exhibit A to the settlement agreement in the amount of \$77,734.00, less all settlement amounts paid prior to the entry of judgment." (ECF No. 19 at 2.)

The court finds that, under the terms of the court's February 21, 2018 order, the entry of judgment against the defendants is the plaintiff's exclusive remedy for the defendants' non-payment.

**IT IS, THEREFORE, RECOMMENDED** that the Plaintiff's Motion for Contempt (ECF No. 20) be **denied**.

Dated at Milwaukee, Wisconsin this 20th day of February, 2019.

  
WILLIAM E. DUFFIN  
U.S. Magistrate Judge