

**UNITED STATES COURT OF APPEALS
FIFTH CIRCUIT**

No. 01-41301

The United States of America for the use and benefit of CMC STEEL
FABRICATORS INC, doing business as Safety Steel Service, Inc,

Plaintiff - Counter Defendant -
Appellant-Cross-Appellee,

versus

HARROP CONSTRUCTION COMPANY INCORPORATED; THE
GLENS FALLS INSURANCE COMPANY,

Defendants - Counter Claimants - Third
Party Plaintiffs - Appellees-Cross-
Appellants,

versus

COMMERCIAL METALS CO,

Third Party Defendant - Counter
Defendant - Appellant-Cross-Appellee.

Appeals from the United States District Court
For the Southern District of Texas
C-96-CV-38

January 30, 2003

Before SMITH, BARKSDALE, and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:*

CMC Steel Fabricators, doing business as Safety Steel (“Safety Steel”), and Harrop Construction Company (“Harrop”) had a number of contracts relating to the supply of steel for three large construction projects. Safety Steel brought suit under the Miller Act, 40 U.S.C. § 270a *et seq.*, to recover amounts not paid by Harrop for some of the steel deliveries. Harrop counterclaimed, suing for breach of contract, fraudulent inducement, and violation of the Texas Deceptive Trade Practices Act. Harrop also joined Commercial Metals Co. (“CMC”), the parent company of Safety Steel, in an attempt to pierce Safety Steel’s corporate veil.

After a bench trial, the district court awarded Safety Steel \$332,856 in damages for Harrop’s failure to pay. It also found for Harrop on all three counterclaims and awarded Harrop approximately \$2.2 million in actual and consequential damages, with approximately \$1 million in prejudgment interest. The district court awarded Harrop approximately \$3.8 million in exemplary damages and \$2.36 million in attorney’s fees. Safety Steel received \$150,000 in attorney’s fees. Safety Steel and CMC now appeal virtually every issue decided by the district court, and Harrop cross-appeals the district court’s decision not to award exemplary damages for the fraudulent inducement claim.

We have read the briefs and heard the arguments of counsel, and have consulted pertinent portions of the voluminous record. On the basis of applicable case law and the record and exhibits, we find no reversible error. We affirm, essentially for the reasons given by the district court.

AFFIRMED.

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.