

UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 98-30856  
Summary Calendar

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GOLD, WEEMS, BRUSER, SUES & RUNDELL,

Plaintiff-Counter Defendant-Appellee,

VERSUS

METAL SALES MANUFACTURING CORP.,

Defendant-Counter Claimant-Appellant.

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Appeal from the United States District Court  
for the Western District of Louisiana  
(96-CV-2653)

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August 26, 1999

Before DAVIS, DUHÉ, and PARKER, Circuit Judges.

PER CURIAM:\*

Metal Sales appeals the district court's grant of Gold, Weems' motion for partial summary judgment on the open account and the district court's grant of partial summary judgment on Metal Sales' counterclaim alleging malpractice for failure to file a cross-appeal. Initially, we note that this Court has jurisdiction to hear this appeal even though a claim for attorneys' fees is still pending. See *Budinich v. Becton Dickinson Co.*, 486 U.S. 196 (1988); *Federal Savings and Loan Ins. Corp. v. Kroenke*, 858 F.2d

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 R. 47.5, the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

1067, 1069 (5th Cir. 1988).

We have reviewed the record excerpts and the briefs of the parties and affirm for substantially the reasons stated by the district court.

AFFIRMED.