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## Panel affirms \$7M verdict over fraud

### Steel fabricator prevails in lawsuit against builder

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A construction company must pay more than \$7.6 million to a steel fabricator over alleged fraud and other claims that occurred while the two companies worked together to build a forensic lab, a state appellate panel held.

A panel of the 1st District Appellate Court ruled Advance Iron Works Inc.'s (AIW) claims against Contegra Construction Co. LLC were not barred due to a previous order filed in a replevin action between the parties and a new trial was not warranted. It also rejected AIW's cross-appeal for more than \$3.9 million in attorney fees and costs.

Justice David R. Navarro delivered the judgment of the court.

AIW sued Contegra in Cook County Circuit Court, alleging wrongful replevin, trespass, fraud, defamation and slander of title, among other claims. The suit arose from a contractual dispute between AIW and Contegra in the construction of a forensic lab for the Illinois State Police.

AIW alleged Contegra, the project's general contractor, made defamatory statements to the Illinois Capital Development Board accusing AIW of providing false financial information to and fraudulently billing Contegra; made false

statements to obtain AIW's steel and mislead the company to believe it would continue as the project's fabricator before terminating it; and entered AIW'S property and removed its materials without authorization, among other claims.

Prior to the current action, Contegra filed a replevin action against AIW which sought a reclamation of steel and materials under the parties' contract "based on its allegations that it paid AIW for more fabricated steel than AIW had delivered to the project site."

In November 2012, the court entered a written order which found Contegra was entitled to possession of certain materials. The matter then proceeded to bankruptcy court, where the replevin claim was dismissed.

In the current matter, a jury found in favor of AIW on all claims except its claim for violation of trade secrets. It awarded AIW more than \$7 million in damages.

Judge Bridget A. Mitchell also awarded AIW more than \$379,000 in attorney's fees and court costs.

Contegra filed a joint motion for a judgment notwithstanding the verdict, a new trial or remittitur, which Mitchell denied.

Contegra appealed.

AIW cross-appealed, seeking more than \$3.9 million in attorney fees and costs.

In the panel's non-precedential Rule 23 order, filed Friday, Navarro wrote AIW's claims for wrongful replevin, trespass, fraud, defamation and slander

of title were not impermissible collateral attacks on the orders entered in the replevin action.

Navarro noted the November 2012 order was "preliminary" since it stated Contegra had "established a prima facie case to a superior right to possession of certain materials it purchased for fabrication and delivery by [AIW]" and the "probability that [Contegra] will ultimately prevail on the underlying claim to possession."

"Thereafter, Contegra did not continue to prosecute its replevin claim in the state court to effect without delay, so the court did not enter a final judgment," he wrote. "Accordingly, because there was no final determination after a trial on the merits in the replevin action, Contegra breached the condition of the bond that it prosecute the suit to effect and without delay. AIW could therefore proceed on a subsequent cause of action on the bond."

Navarro also wrote AIW's wrongful replevin and trespass counts were not barred by res judicata and collateral estoppel.

"Here, the doctrines of res judicata and collateral estoppel do not bar AIW's claims because there was no final judgment on the merits entered in the replevin action," he wrote. "As previously discussed, the court in the replevin action issued the November 16, 2012, initial order in which it found that Contegra established 'a prima facie case to a superior right to possession of certain materials

it purchased for fabrication and delivery by [AIW]' and 'the probability that [Contegra] will ultimately prevail on the underlying claim to possession.' The court subsequently entered orders modifying that order, but it never entered a final judgment after a trial on the merits."

Further, Navarro wrote Mitchell correctly denied Contegra's motion for a judgment notwithstanding the verdict on AIW's claims, writing there was sufficient evidence for the jury to rule in its favor.

He also wrote Mitchell correctly denied Contegra's motion for a judgment notwithstanding the verdict or a remittitur or the jury's award of damages.

Further, Navarro wrote Mitchell correctly awarded AIW more than \$379,000 in attorney fees and court costs.

Justices Mary L. Mikva and Sharon Oden Johnson concurred in the judgment.

AIW was represented by Edward R. Moor of Moor Law Office PC, alongside Robert Muriel and John "Jay" Zenker of Williams, Bax & Saltzman PC.

"The torts occurred in 2012, suit was filed in 2013, and I am happy that my client's claims have been vindicated at long last, first by a jury and now by the Appellate Court," Moor said in an email.

Contegra was represented by Todd Rowden and James Oakley of Taft Law Firm. Rowden declined to comment.

The case is *Advance Iron Works Inc. v. Contegra Construction Co. LLC*, 2025 IL App (1st) 191525-U.