**AFFIRMED and Opinion Filed August 9, 2022**

**In The**
**Court of Appeals**
**Fifth District of Texas at Dallas**

**No. 05-21-00842-CV**

**DRC MEDIA, LLC D/B/A FORT WORTH BUSINESS PRESS; HPR-HEMLOCK, LLC D/B/A NORTHERN VIRGINIA MEDIA SERVICES; VELOCITY BUSINESS MEDIA, LLC D/B/A SMART CEO; AND RICHARD CONNOR, Appellants**
**V.**
**MIDWAY PRESS, LTD., Appellee**

**On Appeal from the 191st Judicial District Court**
**Dallas County, Texas**
**Trial Court Cause No. DC-20-04434**

# MEMORANDUM OPINION

Before Justices Partida-Kipness, Pedersen, III, and Nowell
Opinion by Justice Partida-Kipness

A publisher and his media companies appeal from a summary judgment in favor of a printing company. Finding no error, we affirm the judgment.

## BACKGROUND

Appellee Midway Press, Ltd. is a printing company. Appellants are Richard Connor, who is a newspaper publisher, and his media companies: DRC Media, LLC d/b/a Fort Worth Business Press; HPR-Hemlock, LLC d/b/a Northern Virginia

Media Services; Velocity Business Media, LLC d/b/a Smart CEO. Midway provided appellants with printing services for years before this lawsuit.

At some point, appellants' accounts with Midway slid into arrears. In 2017, Connor and DRC executed a promissory note for $93,238.24 in Midway's favor. The parties now dispute the circumstances that led to the note's execution. Appellants allege Midway fraudulently induced Connor to sign the note by promising that Midway would never attempt to collect on the note. However, Midway alleges the note was a legitimate instrument meant to shore up appellants' past-due debt and Midway never promised not to enforce the note. It is undisputed appellants made no payments on the note.

In 2020, Midway sued appellants for various causes of action including suit on sworn account, and it sued Connor and DRC for breach of promissory note. Appellants answered with a general denial and defenses including fraudulent inducement.

Midway moved for partial summary judgment on its promissory-note and sworn-account claims. As evidentiary support, it submitted financial records showing the particulars of appellants' debts, a string of emails between Connor and Midway's principal Kevin Hirschy in which Connor apologized and made excuses for not paying the note, and an affidavit from Hirschy summarizing the parties' interactions, among other evidence.

Appellants resisted summary judgment by attempting to create a fact issue on their defense of fraudulent inducement and by disputing the amounts due on the accounts. As to fraudulent inducement, appellants offered evidence Midway had induced Connor to sign the note by falsely promising Midway would never attempt to collect on the note. Their evidence portrayed the execution of the note as an empty courtesy on Connor's part to help Midway overcome pressure from its financial auditors.

In the same vein, Connor and DRC pleaded fraudulent inducement as an affirmative counterclaim shortly before the summary judgment hearing.

After reviewing the evidence, the trial court rendered a partial summary judgment in Midway's favor. As relevant here, the order awarded Midway $75,897.70 against DRC on the sworn-account claim and $143,586.76 against Connor and DRC on the promissory-note claim.

Midway then moved for summary judgment to dispose of the counterclaim for fraudulent inducement. The trial court granted this motion as well with an order declaring Connor and DRC take nothing on their counterclaim.

Midway nonsuited its remaining claims, and the trial court rendered a final judgment for Midway with the same relief previously granted in the two summary judgment orders. This appeal followed.

## STANDARD OF REVIEW

"We review summary judgments de novo, taking as true all evidence favorable to the nonmovant, and indulging every reasonable inference and resolving any doubts in the nonmovant's favor." *Energen Res. Corp. v. Wallace*, 642 S.W.3d 502, 509 (Tex. 2022). When a plaintiff moves for traditional summary judgment, it has the burden to conclusively establish all elements of its claim. *Affordable Motor Co. v. LNA, LLC*, 351 S.W.3d 515, 519 (Tex. App.—Dallas 2011, pet. denied). A defendant is entitled to summary judgment disposing of a cause of action if it conclusively disproves at least one essential element of the plaintiff's cause of action. *Cunningham v. Tarski*, 365 S.W.3d 179, 186 (Tex. App.—Dallas 2012, pet. denied). A matter is conclusively established if the evidence leaves "no room for ordinary minds to differ as to the conclusion to be drawn from it." *Int'l Bus. Machs. Corp. v. Lufkin Indus., LLC*, 573 S.W.3d 224, 235 (Tex. 2019). If the movant satisfies its burden, the burden shifts to the nonmovant to raise a genuine issue of material fact precluding summary judgment. *Lujan v. Navistar, Inc.*, 555 S.W.3d 79, 84 (Tex. 2018). A party relying on an affirmative defense to defeat a motion for summary judgment must raise a genuine issue of fact as to each element of the defense. *Holmes v. Graham Mortg. Corp.*, 449 S.W.3d 257, 264 (Tex. App.—Dallas 2014, pet. denied); *Roberts v. Roper*, 373 S.W.3d 227, 232 (Tex. App.—Dallas 2012, no pet.).

## ANALYSIS

### I. Suit on Sworn Account

In their first issue, appellants contend the trial court erred when it rendered summary judgment in Midway's favor on its sworn-account claim. Appellants argue discrepancies in the account show Midway did not apply all just and lawful offsets, as it was required to do, and the claimed balance on the account was not due and owing.

When an action is founded on an open account on which a systematic record has been kept and is supported by an affidavit, the account shall be taken as prima facie evidence of the claim, unless the party resisting the claim files a written denial under oath. TEX. R. CIV. P. 185; *Panditi v. Apostle*, 180 S.W.3d 924, 926 (Tex. App.—Dallas 2006, no pet.). The plaintiff's suit on a sworn account must reveal any offsets made to the account. *Panditi*, 180 S.W.3d at 926. The account must show with reasonable certainty the name, date, and charge for each item, and provide specifics as to how the figures were arrived at. *Id.*

Rule 185's evidentiary presumption can be destroyed, however, and the plaintiff forced to introduce proof of its claim, when a defendant files a sworn denial of the plaintiff's account supported by an affidavit denying the account. *Woodhaven Partners, Ltd. v. Shamoun & Norman, L.L.P.*, 422 S.W.3d 821, 833 (Tex. App.—Dallas 2014, no pet.). "The defendant's written denial must state more than a broad generalization that he 'specifically denies' the sworn account allegations; instead,

the verified affidavit must address the facts on which the defendant intends to rebut the plaintiff's affidavit." *Id.* "An opponent that does not properly file a written denial under oath will not be permitted to dispute the receipt of the services or the correctness of the charges[.]" *Id.*

Midway argues it is entitled to summary judgment on the pleadings because appellants' verified denial was inadequate. *See* TEX. R. CIV. P. 93(10), 185. According to Midway, appellants' verified denial was not sufficiently specific, and the summary judgment on the sworn-account claim could therefore be upheld on that basis alone.

We will assume without deciding appellants' verified denial was sufficiently specific. Even so, the state of the evidence warranted a summary judgment for Midway. *See Woodhaven Partners*, 422 S.W.3d at 834 ("[E]ven when a defendant verifies its sworn denial to a suit on a sworn account, a plaintiff may properly obtain summary judgment on its sworn account by filing legal and competent summary judgment evidence establishing the validity of its claim as a matter of law." (internal quotation marks omitted)); *Sw. Recovery Corp. v. Media Magnetics, Inc.*, No. 05-95-01091-CV, 1996 WL 601722, at *2 (Tex. App.—Dallas Oct. 16, 1996, no writ) (not designated for publication).

Midway offered multiple documents as summary judgment evidence for the sworn-account claim. One was the contract whereby DRC had agreed to pay Midway for goods and services. Another was an affidavit by Midway employee

Jacky Skidmore, who attested to the foundational facts for a sworn-account claim: DRC had agreed to all amounts charged to its account; those charges reflected the usual, customary, and reasonable prices for the goods and services provided; after all just and lawful offsets, credits, and payments had been made to DRC's account, the outstanding balance was $75,897.70; and DRC had refused to pay this amount.

Also attached were a variety of statements for DRC's account. One statement was a master list of all charges and payments from the beginning of the parties' relationship until its breakdown in 2020, with just under a thousand entries over the decade-long span—the sum of which was consistent with the total listed in Skidmore's affidavit. Other statements focused on specific aspects of the account, with one covering the amounts invoiced to DRC between 2017 and 2020, another listing the payments by DRC over the same period, and another showing how the payments were applied to the invoices. Each entry included data on the invoice numbers, check numbers, dates, and amounts corresponding with each credit or debit. The contract, the affidavit, and the account statements carried Midway's initial burden to prove the claim as a matter of law.

The burden thus shifted to appellants to create a fact issue. To do so, appellants argued there were discrepancies with two invoices and their corresponding payments. Appellants assert invoice no. 43920 was paid with check no. 1391 and invoice no. 44202 was paid with check no. 1557, and yet Midway was attempting to collect on both invoices as though they were part of the remaining debt.

Midway's evidence conclusively explained these discrepancies. The account statements showed the checks in question were properly applied to older debts on the account, such that the more recent invoices no. 43920 and no. 44202 remained outstanding. Specifically, the statements show $371.39 of check number no. 1391 was applied to pay the remainder of the older invoice no. 42356 after two other checks had already been applied to that invoice, and the remaining $1,760.29 of check no. 1391 was applied to pay a majority of invoice no. 42439, another unresolved invoice. The statements further show check number no. 1557 was split between two older, outstanding invoices in the same fashion. "[T]he general rule is that when a contract does not specify how payments shall be applied to a running account, payments shall be applied to the oldest portion of the account . . . ." *Durham v. Uvalde Rock Asphalt Co.*, 599 S.W.2d 866, 872 (Tex. App.—San Antonio 1980, no writ); *accord Victor v. Harden*, No. 01-97-00250-CV, 1998 WL 285947, at *6 (Tex. App.—Houston [1st Dist.] June 4, 1998, no pet.) (not designated for publication). DRC and Midway's contract did not require payments to be applied in a manner other than according to the general rule, and thus applying these payments to older invoices was proper and does not undermine the conclusive evidence in support of this claim.

Midway proved its claim as a matter of law, and appellants did not create a fact issue in response. The trial court properly rendered summary judgment for Midway on its sworn-account claim. We overrule appellants' first issue.

## II. Breach of Promissory Note and Fraudulent Inducement

Appellants' second and third issues revolve around fraudulent inducement, which Connor and DRC sought to use both as a shield (a defense to Midway's promissory-note claim) and a sword (a counterclaim for relief).

As to the promissory-note claim, appellants do not dispute Midway carried its initial burden to conclusively prove the elements for breach of promissory note. Rather, they contend their evidence—namely, Connor's testimony Midway's principal Hirschy promised not to enforce the note—creates a fact issue on the defense of fraudulent inducement, which defeats Midway's entitlement to summary relief on its claim.

As to the counterclaim for fraudulent inducement, appellants maintain Midway failed to conclusively disprove this counterclaim and appellants' responsive evidence creates a fact issue that precludes summary judgment disposing of the counterclaim.

Midway counters that (1) it conclusively disproved the counterclaim and (2) the parol evidence rule bars us from giving weight to appellants' responsive evidence, and therefore appellants have not created a fact issue that would save the fraudulent-inducement defense or counterclaim. We agree with Midway.

### A. Applicable Law

Texas law has long imposed a duty to abstain from inducing another to enter a contract through fraudulent misrepresentations. *Anderson v. Durant*, 550 S.W.3d

605, 614 (Tex. 2018). Fraudulent inducement is a species of common-law fraud that shares the same basic elements: (1) a material misrepresentation, (2) made with knowledge of its falsity or asserted without knowledge of its truth, (3) made with the intention that it should be acted on by the other party, (4) which the other party relied on and (5) which caused injury. *Id.*

Actual knowledge of the falsity of representations will defeat a claim based on those fraudulent representations. *Koral Indus., Inc. v. Sec.-Conn. Life Ins. Co.*, 788 S.W.2d 136, 146 (Tex. App.—Dallas 1990, writ denied); *accord Mayes v. Stewart*, 11 S.W.3d 440, 451 (Tex. App.—Houston [14th Dist.] 2000, pet. denied), *disapproved on other grounds by Agar Corp., Inc. v. Electro Circuits Int'l, LLC*, 580 S.W.3d 136 (Tex. 2019); *see Hoyt v. Kim*, No. 05-16-00404-CV, 2017 WL 1550038, at *5 (Tex. App.—Dallas Apr. 28, 2017, no pet.) (mem. op.). Actual knowledge is inconsistent with the claim that the allegedly defrauded party has been deceived, and it negates the element of reliance. *Ahmed v. Mbogo*, No. 05-17-00457-CV, 2018 WL 3616887, at *10 (Tex. App.—Dallas July 30, 2018, pet. denied) (mem. op.); *Koral Indus.*, 788 S.W.2d at 146. "Where false representations or promises are made to induce another to act, and, before such other does act, he learns of the falsity of such representations or promises, it cannot of course be said that he relied upon them believing them to be true, for . . . he has not been deceived." *Thrower v. Brownlee*, 12 S.W.2d 184, 186 (Tex. Comm'n App. 1929, judgm't adopted); *see Allstate Ins. Co. v. Receivable Fin. Co., L.L.C.*, 501 F.3d 398, 406 n.12 (5th Cir. 2007) ("[A]

fraud claim is barred where the plaintiff had actual knowledge of the falsity of a representation.").

**B. Midway's Evidence**

Midway's summary judgment evidence for the promissory-note claim was largely composed of (1) financial records showing the particulars of appellants' debts, (2) emails between Connor and Midway's principal Kevin Hirschy in which Connor conceded fault and made excuses for not paying the note, and (3) an affidavit from Hirschy summarizing the parties' interactions. Midway relied on the emails especially as evidence that Connor actually knew the note was a real instrument rather than a sham, so we set out the content of the emails at length.

The evidence showed DRC had accrued more than $114,000 in debt with Midway by July 2017, with over $74,000 of that amount more than 90 days past due. Hirschy emailed Connor on July 3, 2017, urging him to think about how to finance and pay the past due balance. Connor replied he had recently gone through a divorce that had consumed most of his funds but assured Hirschy he would try to refinance his companies over the next month to correct the deficit.

In early August 2017, Hirschy met with Connor and DRC's CEO Jim McDonald to discuss financing options. According to Midway's evidence, Hirschy offered at the meeting to take the portion of the debts that were more than 90 days past due and move that portion from Midway's balance sheets to a promissory note payable over the course of a year. Midway's evidence showed Connor was amenable

to the plan, and he signed a promissory note for $93,239.24 on August 23, 2017. Attached to the note was an account statement showing the charges that made up the $93,239.24 and the dates these charges had been incurred by DRC.

On August 25, 2017, Hirschy emailed McDonald authorization forms to set up an automatic payment on the note every two weeks. The email warned DRC's total balance with Midway had grown from over $114,000 in June to just over $129,000 by the end of August. Hirschy asked McDonald to have Connor sign and return the forms. McDonald indicated he would "get it signed off and let you know which is best for auto withdraw."

On October 26, 2017, Hirschy emailed Connor that he still had not received payment on the note and stated some invoices were again aging past the 60-day threshold. Hirschy stated his understanding that the refinancing of Connor's companies was set to close the prior week, which would allow Connor to bring the note and account current. The same day, Connor replied with apologetic assurances that he and DRC were back on track and he expected the sale of two assets to close by Thanksgiving.

On December 12, 2017, Hirschy emailed Connor and McDonald he had not received any payment on the note. Hirschy stated the total debt had grown to just under $200,000, and he asked Connor to make at least some payment. Connor responded with "Yes" and "Let me talk to Jim."

On January 9, 2018, Hirschy emailed Connor and McDonald concerning the news that one of Connor's companies had been sold to a new owner, but Connor would remain responsible for all the company's outstanding debt. McDonald confirmed this was the case.

On March 7, 2018, Hirschy emailed Connor and McDonald concerning the note:

> My auditors are trying to finalize my audit but have not heard back regarding the note. They are concerned that we have not received any payments to date and may require me to create a reserve and hit my P&L.
>
> Can you respond/confirm the note for them so they can finalize my audit?
>
> If we can set up the biweekly credit card payments on this note, it would show the auditors that the note will be paid. I would greatly appreciate it.

McDonald asked what the best way would be to confirm the note's validity, and Hirschy asked McDonald to sign a letter confirming the balance on the note was $93,238.24 and the principal was due in 26 equal biweekly installments of $3,586.09 beginning on August 28, 2017. McDonald signed and returned the letter the same day.

On March 8, 2018, Hirschy emailed Connor demanding action to bring his account current. Hirschy relayed his understanding that, since its inception, the note had required biweekly payments of $3,586.09. To pay down the note, Hirschy asked Connor to provide a company credit card to charge $5,000 per month. Connor replied

with further apologies but said he could not provide such a credit card, explaining, "If I had a card with a high limit I would give it to you but I do not. We will have to give you our company debit card and set a day of each months [sic] when you can draft." Midway submits these emails as evidence of Connor's knowledge the note was real and did require him to make payments to Midway.

**C. Appellants' Evidence**

Appellants' summary judgment evidence was made up of an affidavit from Connor and emails between Connor and Hirschy. Connor's affidavit discussed the 2017 meeting where Hirschy proposed the promissory note. As Connor remembered the meeting, Hirschy asked him to sign the note as a courtesy "to 'help' Midway get out of a bind with its lender." According to Connor's affidavit, Hirschy represented the sole purpose of the note was to make Midway appear financially stronger to its auditors. By Connor's account, Hirschy promised Midway would never seek to enforce or collect on the note. Connor reported he relied on these representations and, as a result, he was "tricked" into signing the note. Connor emphasized that appellants never made any payment on the note after it was executed in 2017, but Midway did not declare a default until 2020. Finally, he highlighted a September 2018 email from Hirschy encouraging Connor to make payments on the note so it would stand up as "real":

> Rich, thank you for taking time to have lunch with me today.
>
> Here is the note that was signed last year. If we need to write this we can put the $15,000 payment in and then a lower monthly amount that

> you can swing plus extend it out some. The main thing we need is that the terms are followed so it stands up as a real note in the eyes of the auditors. Currently it does not since we do not receive any payments.

**D. Analysis**

Connor and DRC claim Midway deceived them into believing they would never be asked to pay the note, and they relied on Midway's fraudulent representations when executing the sham note. We will accept as true Connor's assertion that Midway made such a representation. Even so, Midway's evidence conclusively showed Connor and DRC were under no illusions as to the note's true character.

The earliest email exchange in the record, and the one that led to the 2017 meeting where the note was proposed, was not a plea for Connor to help Midway with its auditors, as might have been consistent with Connor's claims. Rather, in that email exchange, Hirschy gave Connor a firm directive to come up with a plan to pay down his debt. Connor assured Hirschy he would do so. The note was then executed after the meeting, and the attached records showed the amount of the note was meant to reflect the balance of Connor and DRC's long-overdue debts. The fact the execution of the note was prefaced by demands for Connor to pay his past-due balance, and the documents showing the amount of the note encapsulated the past-due balance, could not have failed to shape Connor's understanding of the note.

Furthermore, in the emails following the note's execution, Connor never hinted he believed himself exempt from an obligation to pay the note. Instead, the

emails as a group reflected (1) Connor's contrition about his inability to pay the note and (2) his professed willingness to take steps—such as refinancing his companies, selling assets, and providing a company credit card—to enable him to pay the note.

Connor's apologies and proposals on how to pay the note further demonstrate his knowledge he was in fact required to pay the note. The criminal law, for instance, offers a wealth of authority for the proposition that an apology may indicate knowledge. *See, e.g.*, *Reichle v. State*, No. 06-14-00073-CR, 2015 WL 392846, at *5 (Tex. App.—Texarkana Jan. 30, 2015, pet. ref'd) (mem. op., not designated for publication) (holding an apology permitted the inference that appellant acted knowingly); *Schmitt v. State*, No. 13-13-00132-CR, 2013 WL 6924171, at *5 (Tex. App.—Corpus Christi–Edinburg Dec. 30, 2013, pet. ref'd) (mem. op., not designated for publication) (same); *Lopez v. State*, 316 S.W.3d 669, 676 (Tex. App.—Eastland 2010, no pet.) ("As evidenced by his letter of apology to Mrs. Hill, appellant created a false impression of law or fact that he knew was not true that induced the Hills to pay him $15,735.54 for the bogus fees."); *White v. State*, Nos. 07-08-0003-CR, 07-08-0004-CR, 07-08-0005-CR, 2009 WL 196107, at *1–2 (Tex. App.—Amarillo Jan. 22, 2009, pet. ref'd) (per curiam) (mem. op., not designated for publication). Here, even viewing the matter in the most appellant-friendly light, reasonable minds could not differ as to whether Connor's repeated apologies for failing to pay the note indicated his actual awareness of the obligation to pay the note.

Midway's evidence of actual knowledge conclusively negates the reliance element of Connor and DRC's fraudulent-inducement defense and counterclaim. If Connor and DRC knew they were obligated to pay the note, as the record here reflects, then there could be no fraud from the alleged misrepresentation to the contrary. The burden therefore shifted to Connor and DRC to create a fact issue on reliance.

To do so, they point to Connor's affidavit, in which he attested Hirschy misled him into believing the note need not be repaid. They also point to one email from Hirschy in which he stated Connor needed to make payments on the note so the instrument would be perceived as real, saying, "The main thing we need is that the terms are followed so it stands up as a real note in the eyes of the auditors."

Assuming for the moment we could consider this evidence, it would not create a fact issue. Connor's self-serving affidavit proves little, and the email from Hirschy actually undercuts Connor and DRC's argument. This email shows Hirschy always expected Connor to pay the note but was simply lenient with Connor.

Regardless, as Midway rightly points out, we cannot consider Connor and DRC's evidence because it would vary the terms of an unambiguous, integrated note. Under controlling precedent, the parol evidence rule bars us from giving any legal effect to Connor and DRC's evidence.

"When parties have entered into a valid, written, integrated contract, the parol evidence rule precludes enforcement of any prior or contemporaneous agreement

that addresses the same subject matter and is inconsistent with the written contract." *West v. Quintanilla*, 573 S.W.3d 237, 243 (Tex. 2019). "Despite its label, the parol evidence rule precludes enforcement of an alleged agreement, not merely the admission of evidence, and it does so regardless of whether the alleged agreement is oral or written." *Id.* (footnote omitted). "It is not an evidence rule but a substantive rule of law." *Id.*

The parol evidence rule has special application when a party alleges fraudulent inducement in the making of a promissory note: "in a suit by one not a holder in due course against the maker of a promissory note, the parol evidence rule prohibits the admission of extrinsic evidence showing . . . the maker was induced to sign the note by the payee's representations that the maker would not incur liability on the note." *Town N. Nat'l Bank v. Broaddus*, 569 S.W.2d 489, 491 (Tex. 1978); *Noell v. Crow-Billingsley Air Park LP*, 233 S.W.3d 408, 417 (Tex. App.—Dallas 2007, pet. denied). The restriction of the parol evidence rule governs "when there is only a representation to a maker, or surety, by the payee that he will not be liable; on the other hand, a different rule prevails in the instance where something more than just that representation is involved." *Broaddus*, 569 S.W.2d at 491. To avoid the parol evidence rule, there must be "some sort of trick, artifice, or device . . . employed by the payee in addition to his representation to the maker that he would not be liable." *Id.* at 493; *Simpson v. MBank Dall., N.A.*, 724 S.W.2d 102, 108 (Tex. App.—Dallas 1987, writ ref'd n.r.e.).

The only alleged misrepresentation was the note would not be enforced. There was no additional element of trickery or artifice beyond this representation, and therefore Connor and DRC cannot escape the rule of *Broaddus*.

Thus, both summary judgments were warranted. As to the promissory-note claim, Connor and DRC have not disputed Midway proved its promissory-note claim as a matter of law, *see Affordable Motor*, 351 S.W.3d at 519, and Connor and DRC did not create a fact issue on their defense so as to avoid summary judgment, *see Holmes*, 449 S.W.3d at 264. As to the fraudulent-inducement counterclaim, Midway disproved the reliance element of this counterclaim as a matter of law, and Connor and DRC offered no viable responsive evidence to create a fact issue. *See Cunningham*, 365 S.W.3d at 186. This entitled Midway to summary judgment both on its own promissory-note claim and on Connor and DRC's fraudulent-inducement counterclaim. We overrule appellants' second and third issues.

## CONCLUSION

Appellants contended the trial court erred when it rendered summary judgment on the sworn-account claim. Midway conclusively demonstrated its entitlement to summary judgment on this claim, and the two discrepancies alleged by appellants do not show otherwise.

Appellants then attacked the summary judgment for Midway on its promissory-note claim. Appellants did not create a fact issue on the fraudulent-inducement defense, as would have defeated the summary judgment on this claim.

Finally, appellants insisted they created a fact issue sufficient to save the counterclaim for fraudulent inducement. Midway conclusively showed Connor was aware of the true nature of the note, which negated the reliance element of fraud and justified judgment as a matter of law. We therefore affirm the trial court's judgment.

/Robbie Partida-Kipness/
ROBBIE PARTIDA-KIPNESS
JUSTICE

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# Court of Appeals
# Fifth District of Texas at Dallas

## JUDGMENT

DRC MEDIA, LLC D/B/A FORT WORTH BUSINESS PRESS; HPR-HEMLOCK, LLC D/B/A NORTHERN VIRGINIA MEDIA SERVICES; VELOCITY BUSINESS MEDIA, LLC D/B/A SMART CEO; AND RICHARD CONNOR, Appellants

No. 05-21-00842-CV V.

MIDWAY PRESS, LTD., Appellee

On Appeal from the 191st Judicial District Court, Dallas County, Texas Trial Court Cause No. DC-20-04434. Opinion delivered by Justice Partida-Kipness. Justices Pedersen, III and Nowell participating.

In accordance with this Court's opinion of this date, the judgment of the trial court is **AFFIRMED**.

It is **ORDERED** that appellee MIDWAY PRESS, LTD. recover its costs of this appeal from appellants DRC MEDIA, LLC D/B/A FORT WORTH BUSINESS PRESS; HPR-HEMLOCK, LLC D/B/A NORTHERN VIRGINIA MEDIA SERVICES; VELOCITY BUSINESS MEDIA, LLC D/B/A SMART CEO; AND RICHARD CONNOR.

Judgment entered this 9th day of August 2022.