

**HENRY ST. PAUL PROVOSTY
AND GLORIA NEWMAN
PROVOSTY**

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NO. 2015-CA-1219

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COURT OF APPEAL

VERSUS

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FOURTH CIRCUIT

**ARC CONSTRUCTION, LLC,
ET AL.**

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STATE OF LOUISIANA

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MCKAY, C.J. DISSENTS WITH REASONS

I respectfully dissent from the majority’s opinion affirming the trial court’s March 13, 2012 judgment granting a new trial in favor of defendant, Icehouse Capital Management, LLC (“Icehouse”), and the September 2, 2015 judgment dismissing Icehouse from all liability in this matter. For the reasons set forth below, I find that the trial court erred.

Regarding the trial court’s granting of a new trial, I find that the record fails to demonstrate any confusion on the part of the jury. In answering numerous questions pertaining to Icehouse and Mr. Winthrop, the jury consistently found that Mr. Winthrop committed fraud against the plaintiffs. Thus, I find that the trial court erred in granting a new trial on the basis of possible jury confusion. Moreover, after a review of the record, I find that the jury’s verdict regarding Mr. Winthrop’s fraud is supported by the evidence presented. Accordingly, I would reverse the trial court’s judgments and reinstate the jury verdict.