

M AND M GAMING, INC.

*

NO. 2001-C-0545

VERSUS

*

COURT OF APPEAL

JOSEPH C. STOREY, ET AL

*

FOURTH CIRCUIT

*

STATE OF LOUISIANA

*

*

GORBATY, J. DISSENTS.

I respectfully dissent. Louisiana Code of Civil Procedure Article 45 sets forth the rules to determine the proper venue in cases where two or more articles conflict. Subsection 3 provides:

“If Article 78, 79, 80, 81, 82, or 83 is not applicable, and there is a conflict between two or more of Articles 42 and 71 through 77, the plaintiff may bring the action in any venue provided by any applicable article.”

In the instant case, Article 73, “Action against joint or solidary obligors,” and Article 76.1, “Action on contract,” provide different venues in which the plaintiff may properly file suit. Employing Article 76.1, plaintiff chose to bring his action in the parish where the contract was executed, St. Bernard. According to Article 45, although another venue was appropriate under Article 73, venue was also proper in St. Bernard. Therefore, for these

reasons, I would deny the writ and affirm the judgment of the trial court.