

**IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF ILLINOIS—EASTERN DIVISION**

AMAKUA DEVELOPMENT LLC, Plaintiff

v.

H. TY WARNER, TY INC.,  
TY WARNER HOTELS & RESORTS LLC,  
AND JTL CAPITAL LLC, Defendants.

Case No. 05 – CV – 03082

Judge Matthew F. Kennelly

**DEFENDANTS' MOTION FOR JUDGMENT AS A MATTER OF LAW ON  
COUNTS I, III, IV, AND V OF PLAINTIFF'S FIRST AMENDED COMPLAINT**

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For the reasons more fully stated in the attached memorandum of law, Defendants H. Ty Warner, Ty Inc., Ty Warner Hotels & Resorts LLC, and JTL Capital LLC ("Defendants") move pursuant to Federal Rule of Civil Procedure 50(a) for judgment as a matter of law as to Counts I, III, IV, and V of Plaintiff's First Amended Complaint. Additionally, the Warner Defendants move for judgment as a matter of law on Counts I, III, and IV with respect to Amakua's claim of alter ego liability for Ty Inc. and Mr. Warner, and with respect to Amakua's claim for individual liability for Mr. Warner on Counts I and III. Finally, all Defendants move for judgment as a matter of law on Plaintiff's claim for lost profits damages and on Plaintiff's claim that Defendants acted with sufficient intent to warrant the imposition of punitive damages.

Dated: October 28, 2008

Respectfully submitted,

H. TY WARNER, TY INC.,  
TY WARNER HOTELS & RESORTS LLC,  
AND JTL CAPITAL LLC

By: s/ Gregory J. Scandaglia  
One of Their Attorneys

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