

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION**

**DELIVERANCE POKER, LLC,**

**Plaintiff,**

v.

**MICHAEL MIZRACHI and  
TILTWARE, LLC,**

**Defendants.**

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**CIVIL ACTION NO. 1:10-CV-00664-JRN**

**ORDER**

Before the Court is Defendant Tiltware, LLC’s Motion to Dismiss Cause of Action for Failure to State a Claim Pursuant to Rule 12(b)(6). After considering the motion, and the response from Plaintiff, the Court is of the opinion that the motion should be **GRANTED**.

IT IS THEREFORE ORDERED that pursuant to Fed. R. Civ. P. 12(b)(6), Plaintiff’s Fifth Count in the Third Amended Complaint is dismissed in its entirety and with prejudice.

SIGNED this \_\_\_\_ day of March, 2011.

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JAMES R. NOWLIN  
UNITED STATES DISTRICT JUDGE