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2008 SEP 11 AM 11:01

NORMA T. YAGA  
CLERK, APPELLATE COURTS  
STATE OF HAWAII

IN THE SUPREME COURT OF THE STATE OF HAWAII

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ROGER SCOTT MOYLE, Plaintiff-Appellant-Petitioner

vs.

Y & Y HYUP SHIN, CORP., and TTJJKK INC., both d/b/a DO RE MI  
KARAOKE Defendants-Appellees-Respondents.

NO. 26582

CERTIORARI TO THE INTERMEDIATE COURT OF APPEALS  
(CIV. NO. 01-1-2747)

SEPTEMBER 11, 2008

ORDER OF AMENDMENT AND CORRECTION

(By: Moon, C.J., Levinson, Nakayama, Acoba, and Duffy, JJ.)

The opinion of the court, filed on September 4, 2008,  
is hereby amended as to the following:

(1) At Page 2, after the paragraph ending with the  
word "injured," add the following paragraph:

For the reasons discussed herein, we  
hold that the ICA erred in concluding (1)  
that the jury instructions regarding the  
foreseeability of third-party criminal acts  
given by the circuit court were not defective  
and (2) that the circuit court correctly  
included a non-party on the special verdict  
form. We therefore vacate the ICA's November  
23, 2007 judgment and the circuit court's  
March 5, 2004 judgment. This matter is  
remanded to the circuit court for further  
proceedings consistent with this opinion.

and

(2) At Page 38, in the conclusion, add the following underscored text:

For the foregoing reasons, we vacate the circuit court's March 5, 2004 judgment and the ICA's November 23, 2007 judgment, and we remand this matter to the circuit court for further proceedings consistent with this opinion.

In light of the amended opinion, references to page numbers in the majority opinion in Justice Nakayama's concurring and dissenting opinion and Justice Acoba's concurring opinion are corrected where deemed necessary.

An amended opinion, an amended concurring and dissenting opinion, and an amended concurring opinion are being concurrently filed with this order of amendment and correction. The Clerk of the Court is directed to provide a copy of this order and a copy of the amended opinion to the parties and notify the publishing agencies of the changes. The Clerk of the Court is further instructed to distribute copies of this order of amendment and correction to those who received the previously filed opinion.



Steven H. Levinson

Funu C. Takayama



Kenneth E. Duggan, Jr.