

An aerial photograph of a hurricane's eye, showing a large, circular, white cloud formation with a clear center. The surrounding clouds are dense and spiral inward, creating a dramatic, swirling pattern. The overall color palette is dominated by various shades of blue and white, with the white clouds contrasting sharply against the darker blue of the surrounding atmosphere and the dark blue of the ocean below.

Texas Dram Shop Liability: In the Eye of the Hurricane?

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Hold ON!



An aerial photograph of a tropical storm, showing a distinct eye in the center surrounded by dense, spiraling cloud bands. The text is overlaid on the image.

**Dram Shop Liability:
A Tropical Storm
Forms**

An aerial photograph of a dense forest with a winding path. The path is a light brown color, contrasting with the green of the trees. The path starts from the bottom left and curves towards the top right. The trees are a mix of light and dark green, suggesting different species or stages of growth. The overall scene is peaceful and natural.

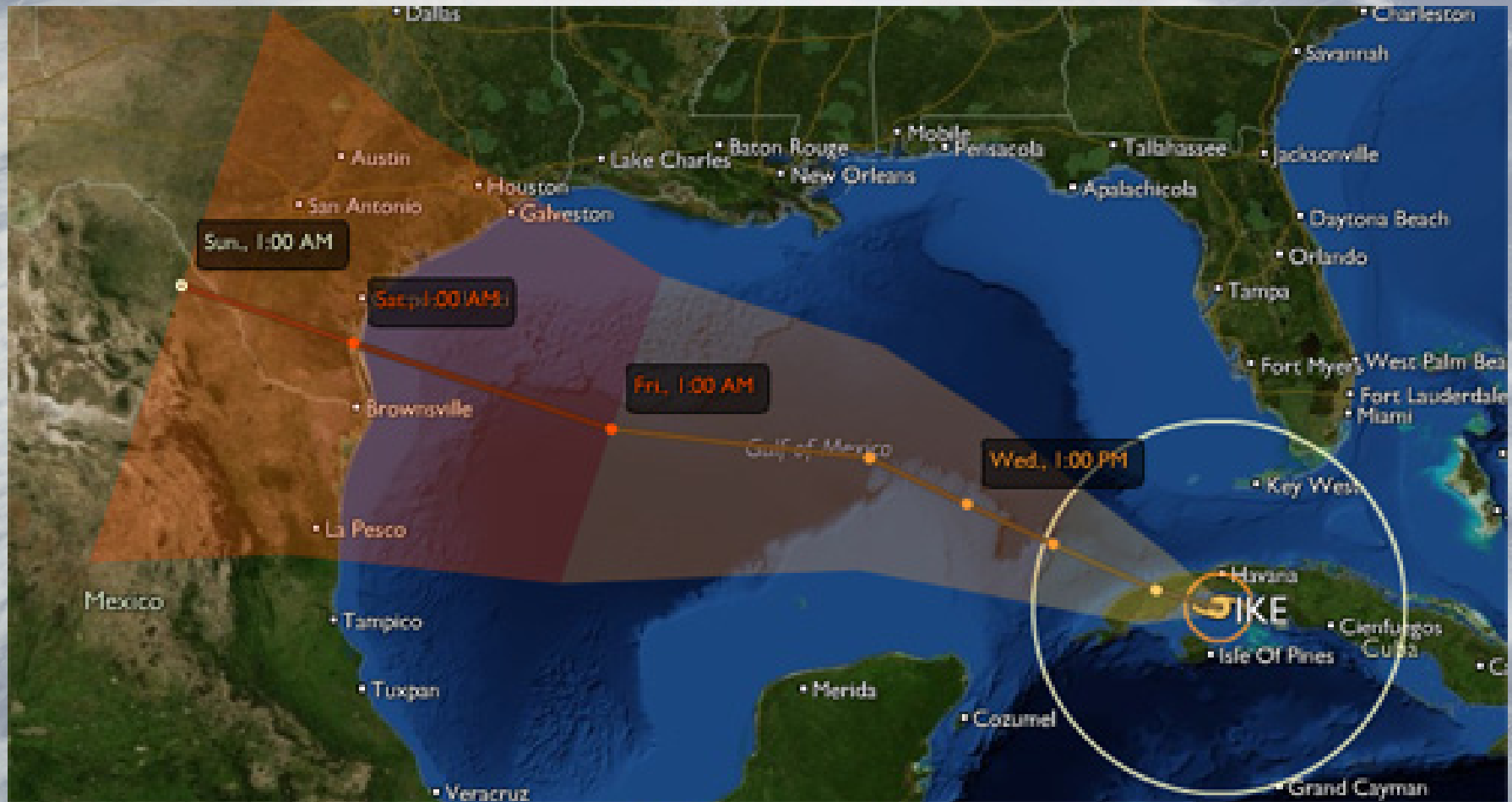
The First Hit

***El Chico Corporation
v. Poole***

***Innocent Injured Ivan
v. Devilish Dram Shop***



Dram Shops In the Path of the Hurricane



An aerial photograph showing a large, circular, light-colored area in the center of a field, possibly a crater or a large hole. The surrounding area is covered in dense, green vegetation. The text "Devilish Dram Shop?" is overlaid on the image in a large, bold, black font.

**“Devilish Dram
Shop?”**

Employer Liability

**Knowledge of
Intoxication**

+

Control of Employee

Dram Shop Act:

- **Exclusive remedy**
- **At time of service**
 - **Obvious intoxication**
 - **Apparent**
 - **Clear danger**
- **Intoxication proximate cause**

"Safe-Harbor" Defense

Provider Not Liable if:

- Required seller training
- Sellers attended
- Provider did not encouraged violation

Change of Course

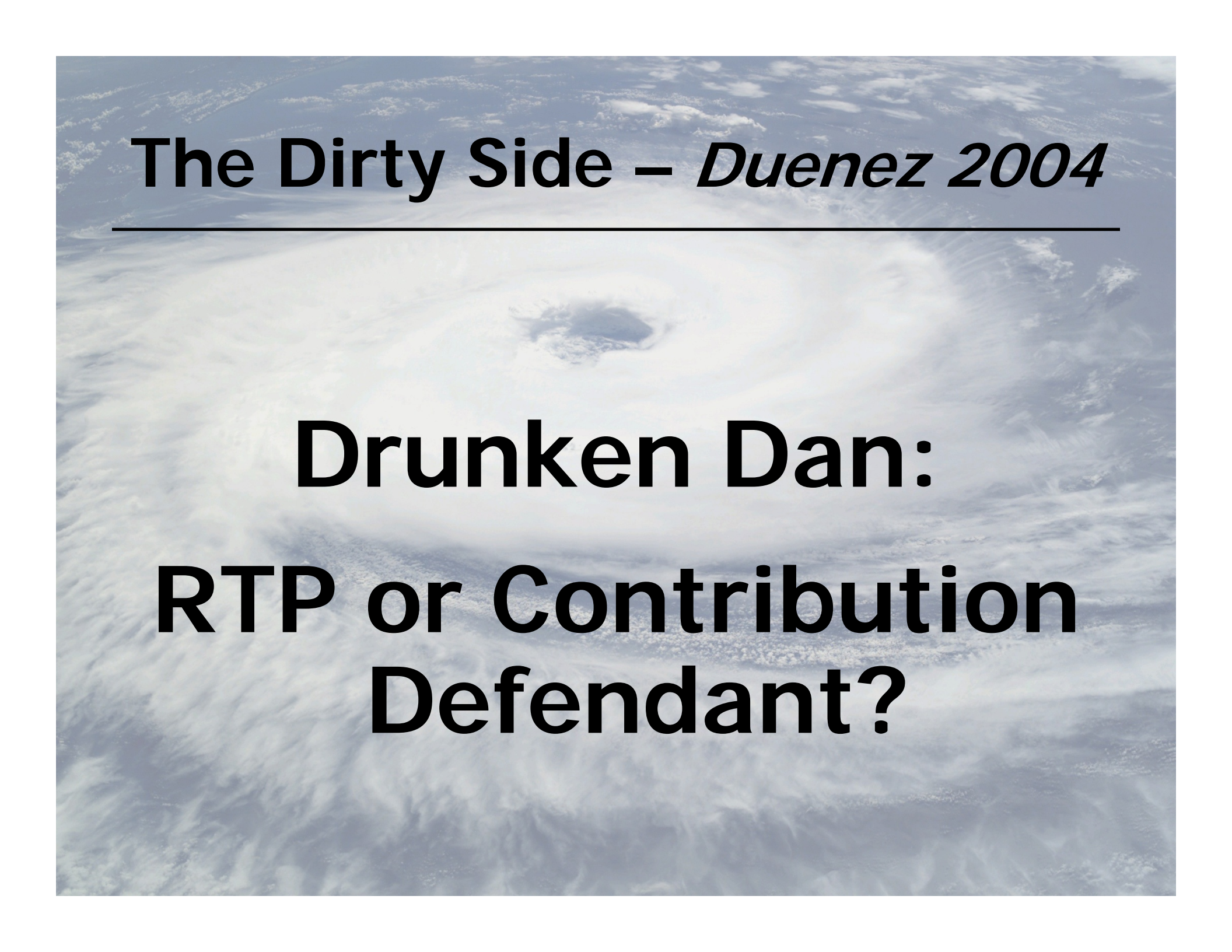
Drunken Dan

v. Devilish Dram Shop

Proportionate
Responsibility applies

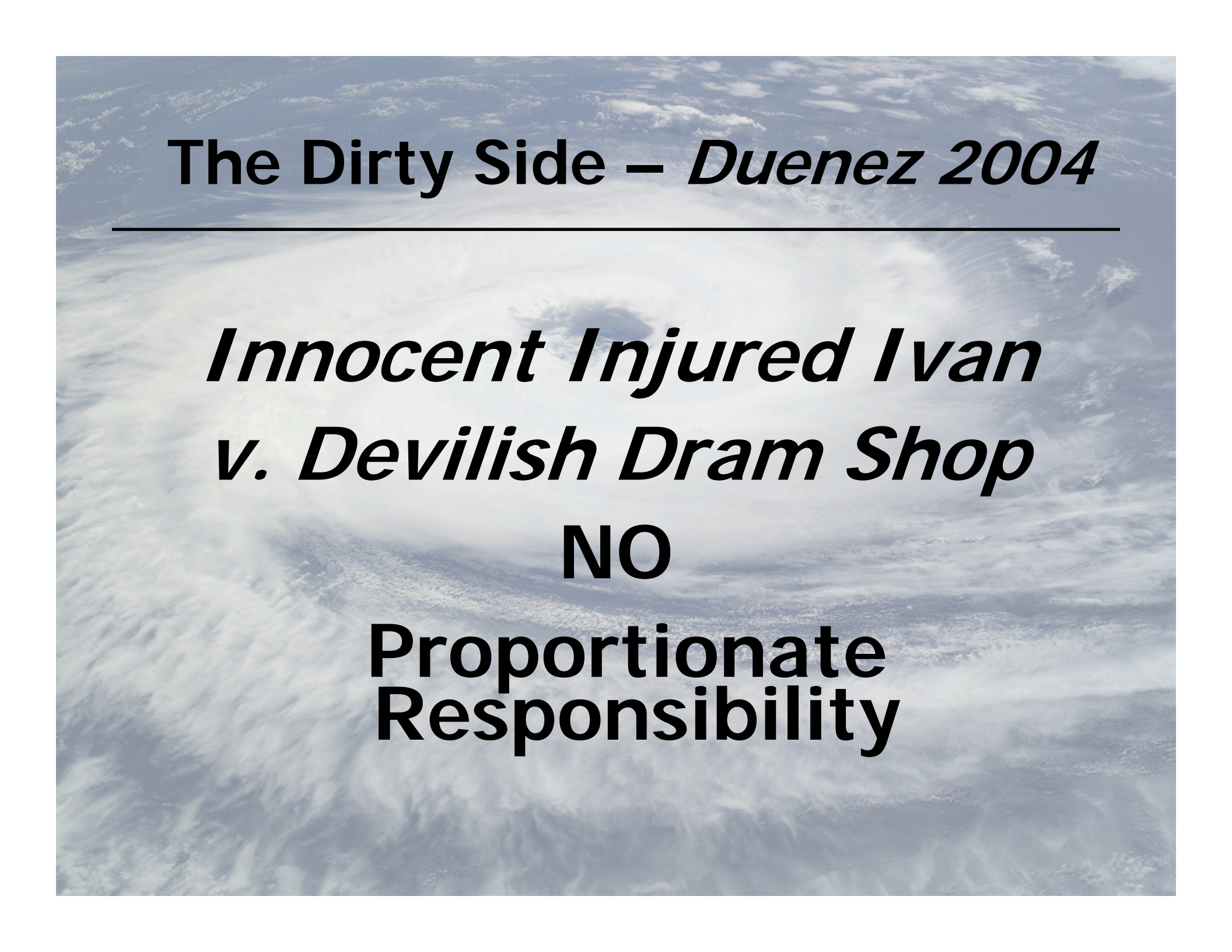
Change of Course

**Drunken Dan recovers if
he is less than 51%
negligent**



The Dirty Side – *Duenez 2004*

**Drunken Dan:
RTP or Contribution
Defendant?**



The Dirty Side – *Duenez 2004*

***Innocent Injured Ivan
v. Devilish Dram Shop***

NO

**Proportionate
Responsibility**

2005 - 2007

Social Host Liability

Duenez 2007

**Proportionate Responsibility
applies to ALL Dram Shop Act**



We ain't
fraid of no
hurricane!

Come on & hit
us with your
best shot!

An aerial photograph of a hurricane's eye, showing a clear, circular center surrounded by dense, white clouds. The image is used as a background for the text.

In the Eye of the Hurricane

**Legislative
Activism**

In the Eye of the Hurricane

- **Difficult Burden of Proof**
- **Safe Harbor**
- **Social Host Liability**
- **Proportionate
Responsibility Applies**

An aerial photograph of a tropical island, likely in the Pacific or Indian Ocean. The island features a central lagoon with a small, dark, rocky islet in the middle. The lagoon is surrounded by a wide, shallow reef flat that transitions into a steep, forested coastline. The water is a deep blue, and the sky is a pale, hazy blue. The overall scene is serene and idyllic.

Something Lighter

NOT RECOMMENDED

NOT ENDORSED

Have a little extra fun?



An aerial photograph of a hurricane, showing the characteristic eye and surrounding spiral cloud bands. The eye is a clear, circular area in the center, surrounded by a dense ring of clouds. The outer bands consist of numerous smaller, swirling clouds that spiral outwards. The overall color palette is dominated by various shades of blue and white, representing the sky and the clouds respectively.

Texas Dram Shop Liability: In the Eye of the Hurricane
