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Kevin Thomas Duffy

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RESPONSE TO A PRACTITIONER'S COMMENTARY ON THE ACTUAL USE OF AMENDED RULE 11

MR. BATISTA: Thank you, Mel. Sitting as close as I am to Judge Duffy and sensing a response I think I will break the structure just for a minute and ask Judge Duffy to comment, and then we will turn to Judge Sifton.

JUDGE DUFFY: Well, I want you folks to realize Mel and I are friends. There is nothing personal about this, there are times that we simply disagree. I don't feel anything personal about it and I know you don't either. If there is something personal about it I will meet you outside later. Let me just mention a couple of things.

Mel says lawyers do not look at the pocketbook issues. The magistrate just said, and I have people come in under this situation and say, "I have a client who is injured and I have a defendant who has got a fat pocketbook." Lawyers don't look to pocketbook issues? What are we talking about? Sure they do. Maybe not Mel, but some people do. Dump sites, is it difficult in proving a case? Sure. Something to do with Rule 11? No. Hell's bells, just because there is difficulty in proving the case doesn't suggest anything like I was suggesting to you folks. What it does perhaps suggest is that some lawyers are misusing Rule 11. Mel suggests that the client can say, "Get the bastard." I always thought that when lawyers talked about getting the bastard they were referring to the judge. Anyway, that is no excuse. That is like saying that the doctor is not guilty of doing something wrong because the client said, "Take out my spleen." Nothing wrong with the guy's spleen. He just thought it was a good idea so the doctor cut him open. Doctors don't do that. You know that as well as I do. Why? It is not done. Lawyers should not bring frivolous motions because the client says, "Get the bastard." All right?

Now, the fact that some judges are mean, I agree with. Does that shock you? I have appeared before, and that is where I learned about who the bastard was. All right? But if we are going to total them all up, now remember judges live in fishbowls. Lawyers don't live in fishbowls. If we total them all up we will find that there are a hell of a lot fewer judges who are mean than there are lawyers who are unethical. Judges are mean, judges are human. God knows and I am willing to bet that there is a tremendous sized group in the bar of the City of New York who is absolutely convinced that Kevin Thomas Patrick Duffy is mean. And they are willing to attest to the fact that my parents were unmarried. My sisters will get them, my sisters are older than I am. And I leave my defense to the two beautiful Duffy girls and pass it off to Judge Sifton.