



MY OPINION

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We Can Handle the Truth

LT. KAFFEE: *I want the truth!*

COL. JESSEP: *You can't handle the truth!*
— "A Few Good Men"

Unlike the courtroom scene in which Col. Nathan R. Jessep (played by Jack Nicholson) confronts Tom Cruise's Navy lawyer, we know Texas lawyers can handle the truth.

After eight years and literally thousands of hours of hard work and deliberation by dedicated Texas lawyers, our moment of truth has arrived. On Jan. 18, 2011, State Bar members will begin voting in a referendum on proposed amendments to the Texas Disciplinary Rules of Professional Conduct.

The proposed amendments are the result of a comprehensive review of the rules governing our responsibilities as attorneys — the first such review in more than two decades. The practice of law has changed significantly over the past 20 years. The proposed rules acknowledge the ways that technology has changed our lives. The rules also provide a practical framework within which to represent clients and guide members of the legal community.

Are the proposed rules perfect? Of course not. But the proposed rules reflect the collective wisdom of the many outstanding lawyers who have devoted endless hours to weighing and considering these issues. The end result protects the public and the profession while promoting the highest standards of ethical behavior. The new rules also comport more closely with the American Bar Association's model rules.

Many have practiced the bulk of their careers under the current disciplinary rules. Some have practiced their entire careers under the current rules. The current rules are familiar. We know them. We understand them. Some lawyers say, "If they're not broke, why fix them?" Simply put, the updated rules will improve the practice of law and the services we provide to the public.

In your hand is the largest issue of the *Texas Bar Journal* in recent memory. To help Texas lawyers, the Supreme Court ordered the printing not only of the proposed disciplinary rules but also of the interpretive comments to those rules. In the referendum, which will take place from Jan. 18 until Feb. 17, you will vote only on the proposed rules, not the interpretive comments. The comments, however, help to explain the rationale behind specific decisions. I urge you to read the rules and comments in tandem. (See p. 894 for an overview of the major changes, written by the Court's rules attorney. See p. 898 for the Court's order, the proposed rules, and the interpretive comments.) Every member of the State Bar of Texas receives this magazine. Before the referendum gets underway, each of us should set aside enough time to educate ourselves about the proposed rules so that we can make an informed decision. When the referendum starts, each of us must vote. It is our responsibility and our obligation.

The January issue of the magazine will include specific recommendations from lawyers across the state. They will recommend how to vote on the six refer-

endum questions before us. (The referendum ballot divides the proposed rules into six categories.) They may say "Yes" to all six. They may identify some to support and others to oppose. Irrespective of your opinion of specific rules, I hope you will agree that the revisions were undertaken in good faith and with the best interests of lawyers and the public at heart. It is easy to criticize specifics — what could have been worded more or less strongly. Yet it is hard to improve on these collective rules without negatively affecting protection of the public or our profession or failing to align more closely with the best practices lawyers across the country have identified.

The truth is: The ball is in our court. We must make a decision. If we do not make a decision, a decision may be made for us. Texas lawyers take seriously the responsibilities of self-governance. I am pleased that the State Bar Board of Directors developed a process that enabled all stakeholders to provide input and voice their concerns. The Board has been responsive to members and the public. The Court has been responsive to us. The proposed rules are better rules because of this dialogue and conversation. Many of the finest minds in our profession have put together the best possible set of rules for us to consider. I truly believe that adoption of the proposed rules will enhance the profession and the practice of law. It is time to move forward. We can handle the truth. ✪