

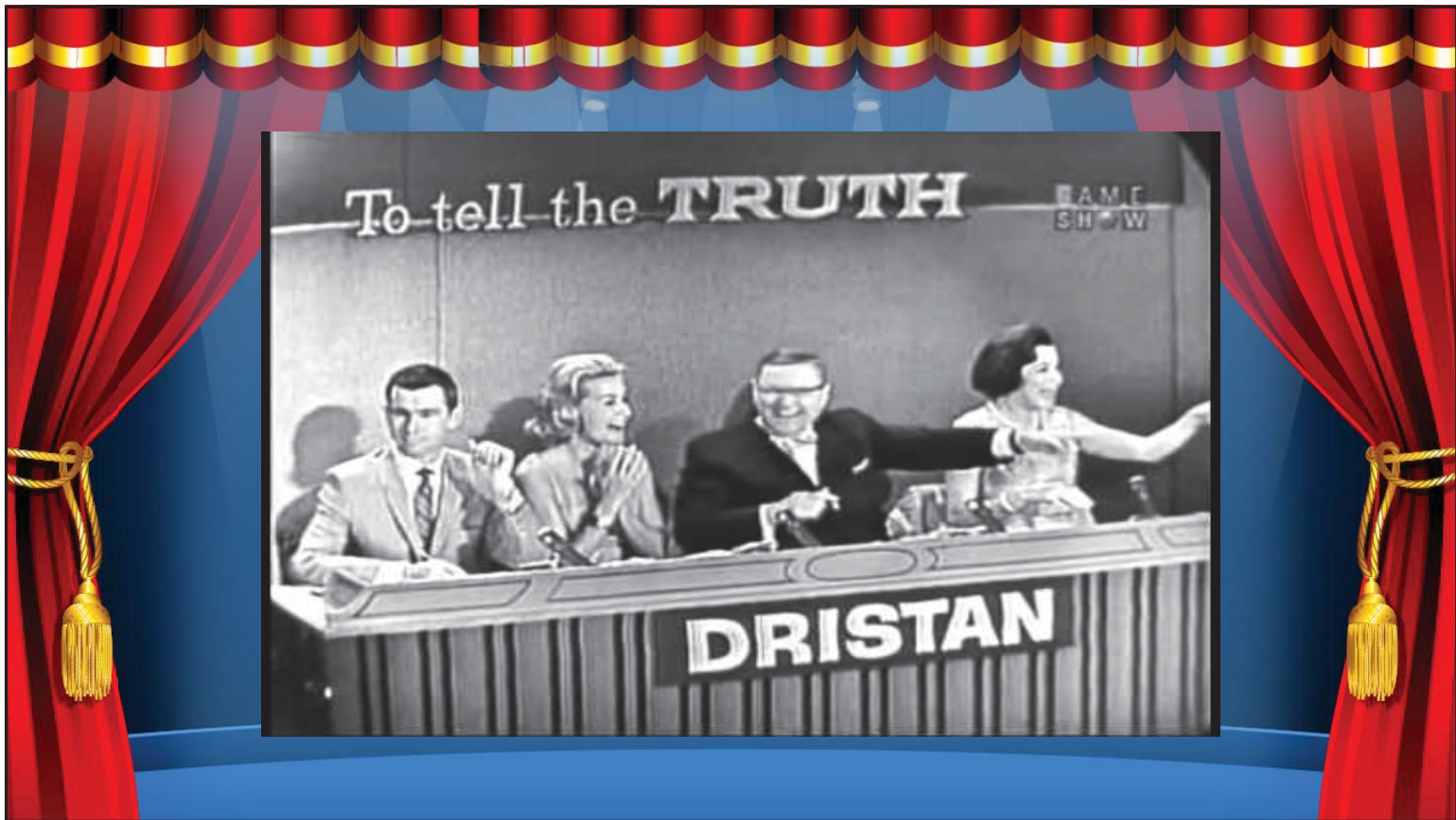
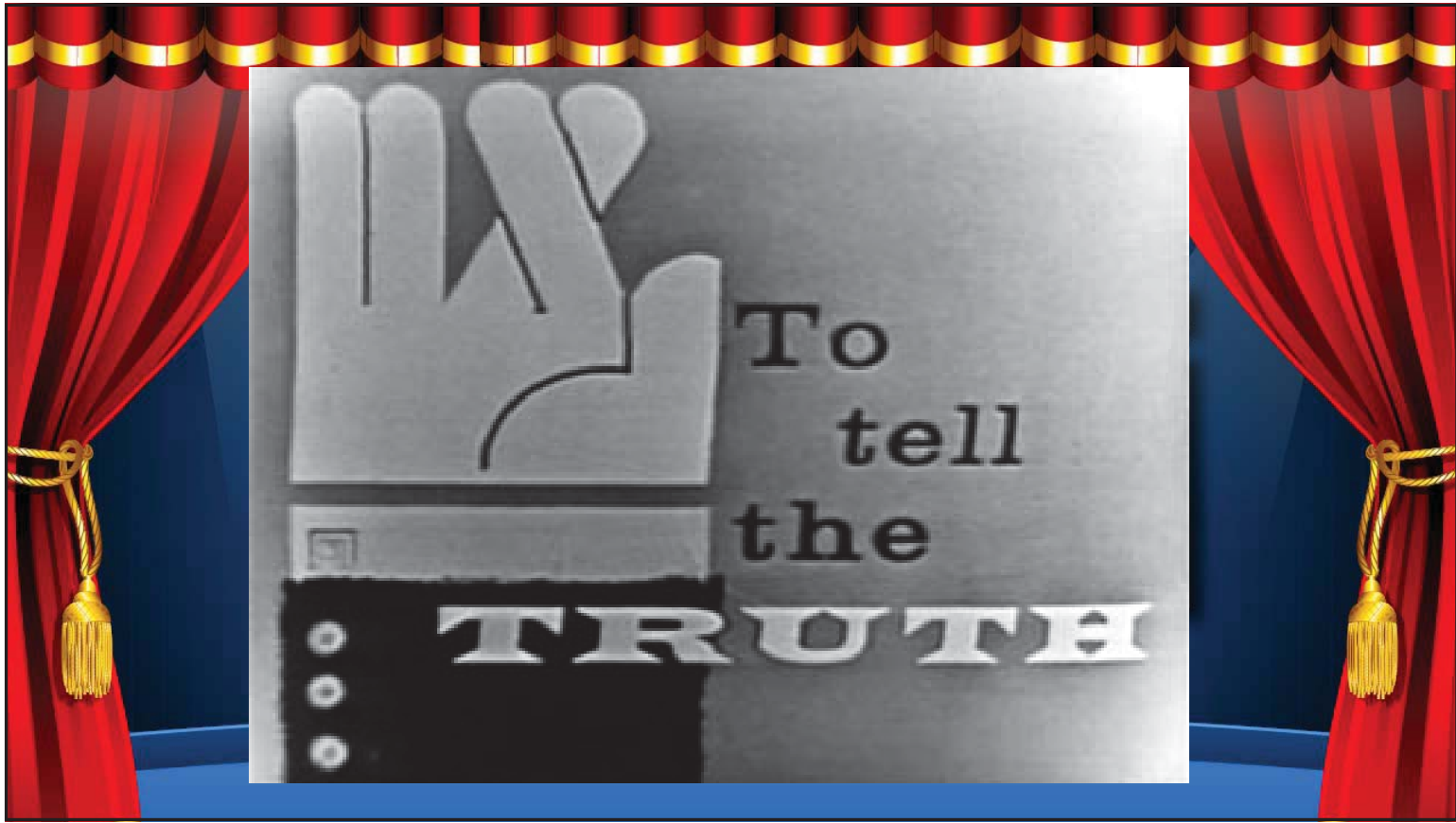


# TO TELL THE TRUTH

The University of Texas School of Law  
28th Annual Conference on State and Federal Appeals

June 14-15, 2018  
AT&T Conference Center  
Austin, Texas  
“To Tell the Truth”

Hon. Tracy Christopher, Fourteenth Court of Appeals, Houston, Texas  
Hon. Daryl Moore, 333rd Judicial District Court, Harris County, Texas  
Hon. David Keltner, Kelly Hart & Hallman, LLP  
Russ Hollenbeck & Raffi Melkonian, Wright Close & Barger, LLP



### Question 1

You retain a renowned professor as an expert witness for your product liability trial. She does not seek any compensation for her time because the topic of her opinions is personally important to her. Instead, she invites you to make a donation to a charity in her name, which you do. You assert during trial that your expert is testifying “pro bono.” After a successful trial result, you send the expert a \$30,000 “thank you” check for her time.

Are you obligated to disclose these payments to opposing counsel?

**ANSWER: Yes**

*See In re: Dupuy Orthopaedics, Inc.*, 888 F.3d 753 (5<sup>th</sup> Cir. April 25, 2018) (hip implant litigation).

## Question 2

A judge retires from the bench. She is extremely upset about the way her former Court is handling a certain type of case that repeatedly comes up. She authors a self-published book complaining about the issue, in which she includes an example of one of these cases and a draft opinion she authored but which did not issue.

Has the judge violated the judicial code of conduct?

**ANSWER:** Probably, yes.

*See Judge Richard Posner's retirement from the Seventh Circuit Court of Appeals.*

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