

Title:	From the Courts: Judge Jones’s Plea for Professionalism
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You may remember the murder of Travis Alexander committed by his ex-girlfriend, Jodi Arias, in Mesa, Arizona. The crime was gruesome and the trial was public, with testimony broadcast daily online. Many outlets, rightly, called the trial a “circus.”

The circus master was a prosecutor named Juan Martinez. Martinez’s behavior was, to say the least, an embarrassment to the profession. He badgered, threatened, and personally insulted witnesses. He basked in his celebrity, posing for pictures and signing autographs. And in closing argument, he appealed not to the jury’s sense of sound judgement, but to their base passions and fears. Martinez’s behavior was, to indulge in understatement, unprofessional.

Arias, after receiving a life sentence, appealed her conviction to the Arizona Court of Appeals. On March 24, 2020, that court affirmed the trial court’s conviction and sentencing of Arias, even as it rightly excoriated Martinez’s conduct. The appellate court noted that, while Martinez’s conduct was egregious and awful (and, indeed, deserving of a referral to Arizona’s ethics oversight body), the evidence against Arias was overwhelming. The jury would have convicted Arias either way, the logic goes, so Martinez’s over-the-top behavior – while ethically wrong – did not cause her to be wrongly convicted.

Of particular note is Judge Jones's special concurrence. In seven paragraphs, Judge Jones wrote separately to explain that "Arias' conviction stands today not *because* of the State's devotion, above all else, to the pursuit of justice, but *in spite of* the prosecutor's willingness to put self-interest, self-promotion, and self-aggrandizement above his duty to maintain the integrity of our judicial system." Judge Jones, despite agreeing with the legal analysis of the opinion, was "left dissatisfied by the serious questions raised by the prosecutor's misconduct." Jones then raises a series of rhetorical questions:

Does a criminal defendant's ill-advised contact with the media open the door to the proverbial circus that occurred in this case? Are we permitted to suspend and abuse the Rules of Professional Conduct so long as a defendant's guilt is overwhelming? Should every attorney, venireperson, lay witness, and member of the public that appears in a criminal court be prepared to confront and be confronted by sarcasm, innuendo, and derision? Should highly educated, credentialed, and respected professionals expect to be bombarded with baseless claims of unprofessional and salacious conduct in the course of presenting their expert opinions? Or, is basic courtroom respect, demeanor and decorum simply dead? Can we no longer rely upon the members of the legal profession to self-regulate through personal conscience and the approbation of professional peers? And, what tools do our trial judges require to corral self-interest and out-of-control egos that undermine one hundred years of effort by this State's legal profession to foster a sense of integrity and propriety in the decisions of our limited-jurisdiction, superior, and appellate courts?

We are now in the midst of an unprecedented challenge. As COVID-19 spreads, our businesses are forced to adapt to new ways of connecting, and the clouds of recession are visible on the horizon. The courts are, essentially, closed but for emergencies. Our clients, hoping for their day in court, may see justice delayed. But the conflicts that brought our clients through our doors in the first place remain, and our clients still seek counsel and solutions from our offices.

Judge Jones's plea for professionalism is, to be sure, directed at extreme conduct. But he reminds us of our solemn responsibility as lawyers to hold ourselves to a high standard of professionalism. And, especially when the weight of problem-solving is heavier on our shoulders, we are called upon to dig deep and act with the utmost integrity and professionalism, not in spite of the unprecedented challenges we face but because of them.

Be well, and be good to each other.