



# MondayMonday

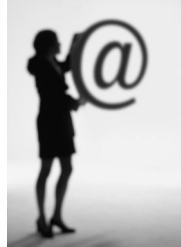
## Arm Too Short to Reach the Net

November 24, 2014

The loss of innocence can be personal, such as that suffered in the backseat of a '57 Chevy at Plum Beach on a warm summer night. In that case, it is something that is shared by two people and remains solely with them for the rest of their lives. It can be momentous or meaningless; exquisite or excruciating; loving or lousy. But it is, if nothing else, private. However, there is another loss of innocence that is shared by many. In such a case, it is cataclysmic and public. It is a loss of innocence that is suffered by all simultaneously and, pardoning the stealing of a metaphor, it makes the earth move.

We shared such a day on November 22, 1963, with the death of John Kennedy. It was good until then. There was a car in every garage, we had accepted the challenge of conquering space and somehow we had even begun to grapple with America's dirty little secret called segregation.

Then came Dallas and we were no longer innocent. She had blood



on her dress, for god's sake. Blood. We all grew up very quick and even the youngest knew that this was not right and something had changed forever.

But who among us was ready for the real loss of innocence on that November weekend. Not the blood on the pink Chanel suit, but the grimace of death on the holiest of holies. Lee Harvey Oswald shot to death right before our eyes on television. Television. The magical window that brought us Howdy Doody and Ed Sullivan. We had opened Pandora's box and it now brought death, in real time, directly into our safe living room in East Flatbush. Nothing has been the same ever since and never will be. The box has been opened and the lid can't be shut. Television is no longer our friend, but rather a suspicious houseguest who we have to watch lest he steal the silver when we are not looking.

The protection of New York's medical consumers took another blow last week from the Court of Appeals in *Paterno v. Laser Spine Inst.* (2014 NY Slip Op 08054, 11/20/14). In an almost counter-intuitive analysis, the Court decided that defendant, who gleefully trolled for NY back patients to surgically repair at their facility in Florida, could avoid NY jurisdiction because all it did in NY was, well, inveigle its patients into coming to Florida. A passive website, emails and instructions for tests to be conducted in NY were not enough, said the Court, to justify long-arm jurisdiction and the NY malpractice action is dismissed. The reality, the Court offers, is that "[i]t is no longer unusual or difficult, as it may have once been, to travel across state line in order to obtain health care from an out-of-state provider." Nor is it unusual to "expect follow up for out-of-state treatment." The reality is, the Court suggests, that this is a new, internet/fax/email world which affords less protection to a NY victim, thanks, in no small part, to a long-arm thesis which no longer has any tether to the real world in which it exists.

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