



MondayMonday

SI to BKLYN Over the VZ, Got It?

November 17, 2014

We doubt than any issue of *MondayMonday* in the past year or two received the number of positive comments that last week's issue did, which dealt with the problem of judges not judging. Today, we take those positive comments to heart, and give you a hero.

In 1962, only one man stood between a screaming mob and a segregationist governor at the doors of the University of Mississippi. He was John Doar and he was escorting a young black man, James Meredith, to his first day as a college freshman. Doar not only walked with Meredith past that gauntlet of hate, but he walked him into his dorm room and then sat the night, protecting him. Two men were killed during those riots and 160 federal marshals were wounded. But Meredith registered for classes the next day because Doar, the lawyer, stood tall. Two years later, this time in Meridian, Mississippi, it was Doar standing tall against a bottle-throwing mob and gun-drawn police officers in the prosecution of 17 Klansmen who had killed three civil rights workers, Schwerner, Chaney and Goodman. It was Doar, the lawyer, who led the march from Selma to Montgomery



as the face of the United States; it was Doar, the lawyer, who prosecuted the killers of Viola Liuzzo, whose only crime was believing that whether you were white or black in America was meaningless; it was Doar, the lawyer, who faced the bricks, stones and bottles in Jackson. "I'm here from the Justice Department, and anybody here knows what I stand for," said Doar, the lawyer. And when a sitting Republican president became a crook, it was Doar, the lawyer, the self-described Lincoln Republican, who investigated Watergate and suggested that Nixon resign.

John Doar of Wisconsin, a lawyer and the son of a lawyer, passed last week. Hero? Better. [Lawyer](#).

While we are always concerned about what to do in any given situation, frequently the companion question, where to do it, can be even more important. Questions of venue are critical for any astute practitioner, so we enjoyed the Second Department's little review last week in *Chung v. Kwah*, 2014 NY Slip Op 07656 (2d Dep't 11/12/14). A medical malpractice ac-

tion, plaintiff initially venued his action in Kings County, only to have defendants seek to have that venue moved to Richmond County instead, which Supreme Court promptly granted.

That change of venue, however, was incorrect, says the Appellate Division. Venue was set in Brooklyn for this was the location of defendant Dr. Lee. Defendants contended, however, that none of the parties resided in Kings County and that Lee maintained his residence on Staten Island.

The court began by reminding that under 503(d), the county of an individual's office is, indeed, a proper county for the action to be venued. Whether or not Dr. Lee lived in one county, but practiced medicine in another, was immaterial. "In the context of determining the proper venue of an action, a party may have more than one residence."

In order to change venue under 510(1), defendants have the burden of showing that plaintiff's choice of venue was wrong "on the day the action was commenced," something defendants could not do here. Absent that showing, the plaintiff is not required to establish that his selected venue was proper. Defendants had never demonstrated that Kings County was improper, so Supreme Court should have denied the motion to cross the river. Next stop? Brooklyn.

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