

# VERDICTS & SETTLEMENTS

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## PERSONAL INJURY

**MEDICAL MALPRACTICE**  
Negligent Pacemaker Implantation

VERDICT: Defense.

CASE/NUMBER: John Handal  
v. Henry Yee, M.D., Doe Medical  
Center / GC050114.

COURT/DATE: Los Angeles  
Superior Torrance / March 4, 2016.

JUDGE: Hon. Laura C. Ellison.

ATTORNEYS: Plaintiff - Ronald  
G. Rosenberg (Rosenberg &  
Koffman, Los Angeles); David J.  
Wilzig (David J. Wilzig APC, Los  
Angeles).

Defendant - Kent T. Brandmeyer  
(Law Brandmeyer Packer LLP,  
Pasadena).

**MEDICAL EXPERTS:** Plaintiff -  
Jeffrey E. Galpin, M.D., infectious  
diseases, Tarzana; Xiushi Suzy  
Liu, M.D., cardiology and  
electrophysiology, Alhambra.

Defendant - Shephal Doshi,  
M.D., electrophysiology, Santa  
Monica; Howard E. Pitchon, M.D.,  
infectious disease, Beverly Hills.

**FACTS:** Plaintiff John Handal had  
four episodes of syncope, each  
approximately five years apart. He  
was referred to Dr. Henry Yee, a  
cardiologist. Dr. Yee performed an  
EKG and determined plaintiff had a  
low heart rate. On bringing up the  
potential for pacemaker surgery,  
plaintiff passed out on the floor of  
the doctor's office. The doctor test  
for a pulse and it was weak and  
then none. A physician in Dr. Yee's  
office began performing CPR. The  
plaintiff was revived and urgently  
recommended for a pacemaker.

The paramedics brought plaintiff  
to Doe Medical Center, where Dr.  
Yee implanted a pacemaker within  
six hours of meeting plaintiff. The  
procedure went without incident.

Within one week of the surgery,  
plaintiff began complaining of fever  
and pain at the incision site. Dr.  
Yee prescribed antibiotics. About  
three weeks later, there were  
continued complaints of redness  
and potential pus at the pacemaker  
site. Dr. Yee hospitalized plaintiff  
for observation and gave him IV  
antibiotics. Thereafter, the infection  
cleared up and plaintiff never  
returned.

About three months later, plaintiff  
saw a competing cardiologist in the  
same community and he diagnosed  
an abscess in the pacemaker  
pocket and removed the device.

**PLAINTIFF'S CONTENTIONS:**  
Plaintiff contended that he never  
needed a pacemaker and Dr. Yee  
overreacted to his benign episode  
of fainting in the office. He did  
not meet pacemaker implantation  
criteria. In fact, four months later,  
his pacemaker was removed and he  
has done fine without a pacemaker  
in the 4.5 years thereafter. This  
was further evidence that he never  
needed the pacemaker in the first  
place.

Plaintiff also contended that Dr.  
Yee coerced him into receiving  
this pacemaker within six hours  
of meeting him for the first time.  
He did not offer a second opinion,  
told plaintiff that he would die  
if he did not get a pacemaker,  
and threatened to call the DMV  
to report plaintiff as an unsafe  
driver who may lapse into  
unconsciousness. Therefore,  
plaintiff's informed consent was  
coerced.

Plaintiff further claimed that  
Dr. Yee inoculated him with  
E.coli bacteria at the time of the  
pacemaker placement. This caused  
the developing infection, which  
was marked by several different  
antibiotics. This caused a delay of  
several months before the infection  
became an abscess; and was  
diagnosed.

**DEFENDANT'S CONTENTIONS:**  
Dr. Yee contended that plaintiff  
met the criteria for pacemaker  
implantation given his slow heart  
rate, loss of consciousness and  
cardiac arrest in the office. Dr. Yee  
denied ever coercing plaintiff into  
pacemaker implantation, although  
he did recommend this urgently  
given the difficult circumstances.

Dr. Yee also contended that all of  
his treatment of the developing  
infection was reasonable, proactive  
and appropriate. The infection  
that did eventually develop was  
unrelated to the care that Dr. Yee  
provided, and there was absolutely  
no evidence that during the time  
of the pacemaker placement there

was an inoculation of bacteria  
given the sterile operating room  
conditions that were observed, per  
the usual custom.

**INJURIES:** Plaintiff suffered  
unnecessary implantation and  
explantation of pacemaker. Plaintiff  
developed an abscess infection  
necessitating explantation.

**DAMAGES:** \$250,000 (general  
damages)

**SPECIALS IN EVIDENCE:** MEDS;  
\$3,500 LOE; \$50,000. Plaintiff  
worked as a BMW mechanic  
running his own shop.

**JURY TRIAL:** Length, eight days.

**SETTLEMENT DISCUSSIONS:**  
Plaintiff demanded \$178,000.  
Defendant made no offer.

**RESULT:** The jury found in favor of  
Dr. Henry Yee.