

Big Cases, Personal Touch

Mediator settles suits against drugmakers in nuanced fashion

By Emily Green
Daily Journal Staff Writer

SAN FRANCISCO — Not every woman shares lipstick. But when Cathy Yanni found herself without, she asked a JAMS staffer if she could borrow some.

“It’s lipstick patrol,” Yanni playfully said.

And when it comes to getting lipstick in a pinch, lawyers said Yanni is a mixture of confident and down to earth. She knows when to ask and when to back off.

Known for her warmth and patience, Yanni has a record of settling multimillion-dollar lawsuits that cross state lines. Her fans include mediation superstar Kenneth R. Feinberg, who oversaw the government’s September 11 Victim Compensation Fund.

In 2007, Feinberg and Yanni were two of four special masters in charge of distributing roughly \$700 million paid by drug company Eli Lilly & Co. to settle 8,000 claims from people who claimed they had developed diabetes after taking Zyprexa, the company’s drug for schizophrenia.

“The number one suggestion she made — and it turned out to be essential — was to give any claimant who wanted it the opportunity to be heard,” Feinberg said.

Per that suggestion, the special masters presided over thousands of hearings of people unhappy with the amount of money allocated to them. The special masters then decided whether to give them more.

That was different from many claims processes, Feinberg said, in which lawyers negotiate the amount of money litigants will receive, “end of story.”

“It was very, very important to get the plaintiffs to accept a settlement,” Feinberg said. “It takes a little longer, but at the end of the day the statistics prove that it was wise.”

Reflecting on the experience, Yanni said, “The details of each

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Areas of specialty: Class actions, mass tort, employment, insurance, elder abuse, special master

claim in a settlement are extraordinarily important. I also think you have to fold in the personal touch so that people understand they are being heard. It’s not just rote.”

Yanni had worked for nine years as a mediator before the Zyprexa settlement and had helped settle lawsuits against pharmaceutical companies. Still, that mediation marked a turning point in her career, she said, enhancing her national profile.

She was selected to resolve outstanding claims related to lawsuits over faulty silicone gel breast implants. In 2012, she served as president of the national Academy of Court-Appointed Masters.

In December, she was appointed to a four-person team charged with implementing a \$2.5 billion settlement of 8,000 cases against Johnson & Johnson for allegedly faulty hip implants.

“She is chameleon-like,” said San Ramon plaintiffs’ attorney Dina Micheletti of Fazio Micheletti LLP. “She can deal with people who are tough negotiators and have strong opinions with success and diplomacy.”

Yanni settled one case in which Micheletti represented a group of Apple Inc. customers who sued the company for unfairly denying them a warranty on their iPhones by claiming the phones had been damaged by water exposure. The case settled for \$53 million.

That was impressive, Micheletti said. But even more impressive was that Yanni then settled a much smaller lawsuit contending false advertising of organic eggs. To Micheletti’s surprise, Yanni knew all about eggs and chickens and could speak to the defendant “in his own language.”

“It really was one of those things where we just went ‘wow.’”



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Yanni said one common thread runs through every dispute she sees: “Every single case is personal. And the people have relationships with each other no matter what the substantive issue.”

“The most distinguishing characteristic [about Yanni] was just her patience,” said Lisa van Krieken, an employment defense attorney with Folger Levin LLP who used Yanni as a mediator in a wage and hour discrimination case.

“She was very good with both sides in taking the time to listen to everything,” van Krieken added.

The eldest of seven children, Yanni had practice on the home-front dealing with a range of personalities. She grew up in Allentown, Pa. and attended Mount Holyoke and Dartmouth colleges to study art history.

She had one burning desire — to be in San Francisco — and her path to that goal was to enroll in San Francisco’s Golden Gate University School of Law. She graduated in 1981.

Yanni comes from a family of attorneys: her father, two sisters, a brother-in-law and her husband are all lawyers. Her husband, David Yount, is a sole practitioner specializing in insurance defense.

Yanni was an early adopter of mediation. She got her start as a discovery referee for the San Mateo County Superior Court in 1994. In

1995, she completed a mediation workshop through Harvard Law School, and in 1998 joined JAMS. She has worked there ever since.

While she loves mediating the multimillion-dollar class actions, Yanni also takes care to have smaller cases and her workload is divided roughly equally between the two.

“You need every day cases,” she said. “You can’t count on the fact of having one big case. You always need to have a balance of both.”

Duke University law professor Francis McGovern, one of the pre-eminent mediators in the country who has worked with Yanni, praised her “bed-side manner.”

“What she excels in are cases that have a behavioral component,” he said, “where you need a slow hand and an easy touch.”

Here are some of the attorneys who have used Catherine Yanni’s services recently:

Lesley Clement, Clement & Associates, Sacramento; Dina Micheletti, Fazio & Micheletti LLP, San Ramon; Lisa van Krieken, Folger Levin LLP, San Francisco; Linda Klamm, Hanson Bridgett LLP, San Francisco; Kathleen McCormac, McCormac & Associates, San Francisco; Penelope Preovolos, Morrison & Foerster LLP, San Francisco; Steven Skikos, Skikos Crawford Skikos & Joseph, San Francisco.