

# MAGNA FYI

JANUARY 2017

10 *year*  
ANNIVERSARY

SPECIAL EDITION

Be Greater Than!

## TOP 10

LITIGATION CONSULTING TIPS

## INTERVIEW

WITH MARK AARONS,  
V.P. & DEPUTY GENERAL COUNSEL,  
MODELL'S SPORTING GOODS

## CHOPPED!

EVENT RECAP & PHOTOS

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FROM PETER HECHT  
EXECUTIVE V.P. OF SALES,  
MAGNA LEGAL SERVICES

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EDITOR'S  
*note*

PETER HECHT | EXECUTIVE VICE PRESIDENT OF SALES AT MAGNA LEGAL SERVICES

To our clients, friends, supporters,  
employees and court reporters, I want  
to wish you all a Happy New Year!

So judging by the cover, you have probably  
concluded that team Magna is celebrating our  
first two digit birthday, or perhaps  
better said, our big 10 year anniversary.  
I know it may sound cliché, but it really  
does feel like yesterday that I was sitting  
in a conference room with Mark Calzaretta  
making all our Jerry Maguire phone calls.

So where are we now? Well, for starters,  
thanks to our loyal clients and staff, we have won  
dozens of awards in the Legal Intelligencer, National  
Law Journal and The New York Law Journal.  
We've built a nationwide network of court reporters  
that have allowed us to cover depositions in every  
US Zip Code and we have launched new online jury  
research tools that have changed the way the legal  
and claims community uses focus groups and mock  
trials.

Through our conference program, we have created  
a unique series of edutainment type CLE's that  
have raised thousands of dollars for The Children's  
Hospital of Philadelphia, while teaching attorneys  
new trial skills.

Most recently, we opened a new office in the Big  
Apple (that's NYC in case you didn't know) that  
features (again cliché ) state of the art deposition  
suites and a cutting edge graphics design studio.

So here's what I'm thinking... I love what I do for a  
living and another 10 years with you all would be a  
real business blessing. I am fortunate that  
each day I get to work I still have the same  
energy as when Mark and I were making  
those calls.



Keeping my eye on 2017, here are three  
Magna predictions:

1. Magna will break the record of winning multiple  
new categories for ALM's "Best Of" surveys.
2. Our damages assessment tool called Jury  
Evaluator will become the go-to litigation  
support tool for cases both big and small.
3. We will raise the bar in the edutainment CLE  
arena with new content blending education and  
entertainment, while continuing to raise money  
for The Children's Hospital of Philadelphia.

Happy New Year and Happy Anniversary Magna  
Legal Services!



# CHOPPED

MOCK TRIAL CHALLENGE

## THANK YOU.

Magna's 4th Annual Chopped for CHOP (Children's Hospital of Philadelphia) fundraiser was a great success thanks to the fantastic competitors and sponsors. Without your support, this event would not be possible. We hope to see you next year!

To learn more about Magna Legal Services and speaking opportunities, contact Peter Hecht at 215.207.9460 or phecht@MagnaLS.com



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# How Jury Shadowing Can Solidify Your Victory

Empaneling a shadow jury is an effective method of providing your legal team with real-time feedback on the reactions of the actual jury. A shadow jury is a group of people whose personal characteristics match those of the real jurors on a case as closely as possible. This matching goes beyond mere objective demographics. Through a questioning process similar to voir dire, organizers select shadow jurors for their life experiences, attitudes and opinions that reflect those of specific jury members. The shadow jury attends every day of the trial, hearing the same arguments and seeing the same evidence as the real jury. At the end of each day, the jury consultant debriefs the shadow jurors to find out their reactions to that day's trial proceedings, and they deliver that information to your team. Based on these ongoing responses, your team may adjust the emphasis, method or framing of your case. The following four points show the key benefits that a shadow jury can offer you:

## 1. Pinpoint Strengths and Weaknesses in Your Case

Even with the best planning, it's not always possible to predict how jurors will react to the unfolding of a court case. The opposition presents witnesses that antagonize the jurors against your client, and you may find yourself scrutinizing the jury's body language to glean what they're thinking. Shadow juries are able to explicitly convey their responses to you, via the jury consultant, so you aren't left guessing about the effects of the day's proceedings. They help your team pinpoint areas that need more explanation or focus your presentation to make it more persuasive. Jury shadowing gives you a new interactive agility, tracking where your jurors' sympathies lie on a daily basis. The American Bar Association's Litigation News features an example of using a shadow jury, and points out, "Although the trial team did not know exactly what the real jury was thinking, they were able to make meaningful inferences

from the shadow jurors' reactions to the trial."

## 2. Identify Strong Juror Opinions

Using a shadow jury helps you recognize which jurors remain undecided, as well as which ones have settled on a strong opinion early in the trial and are inclined to ignore further evidence. A good way to ensure that shadow jurors are not just telling you what they think you want to hear is to keep the shadow jury "blind." (In other words, they don't know which side hired them.) This practice enables your jury consultant to receive unvarnished opinions from the shadow jurors, and to recommend specific trial strategies to you based on each day's feedback. For example, if you are working to defend a client and your shadow jury finds the plaintiff's witnesses highly convincing, that may give weight to your recommendation that your client settle the case.

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## 3. Keep an Objective Perspective on the Case Status

You are saturated with the facts of your case, and you may be so focused on presenting those facts in a certain light that you lose sight of how your arguments are perceived by the jury. Sharing a body of information in a coherent, persuasive manner can be surprisingly difficult, and has many hazards: You may inadvertently skip important explanations, because you assume your listeners already understand the underlying concept. Or, you might engage in a lengthy recital of details which seem relevant to you, but which are so dense that the jury loses the thread of your argument. A shadow jury will be able to give you feedback on what they understand, helping you fine-tune your delivery of information.

The jury consultant adds another layer of perspective, as he or she distills and condenses the shadow jury's responses. With this expert assistance, you are provided with an actionable set of recommendations regarding the shaping of your argument, and your time is used effectively. The use of this type of intermediary also allows the shadow jurors to express their unvarnished opinions of each attorney's presentations, and this provides you with valuable feedback. In some cases, jury consultants even bring shadow juries together to "deliberate" before your closing arguments, so that you can have a preview of actual jury deliberations.

## 4. Recognize the Emotional Cues that Resonate

Every juror (and every shadow juror) comes to the trial with their own emotional baggage. This creates a set of filters that influences how these individuals hear and understand the arguments you give. When you have daily feedback from your shadow jury, it's easy to

recognize when you've succeeded in eliciting emotions that will cause the actual jury to be sympathetic to your case. Other essential emotional cues concern the jury's reaction to the personality of your witnesses and experts. For example, you may find that jurors have a negative response to an expert witness whom you've hired, and you may decide to minimize that witness's time on the stand. Visual cues and graphic images also pack a strong emotional punch, and your shadow jury's response may cause you to fine tune your use of these exhibits in upcoming sessions.

Shadow juries provide the closest insight you can get into the crucial "black box" of the actual jury. Using this valuable research tool can help you to shape your argument, and the feedback from a shadow jury may also be invaluable in persuading your client that a particular course of action will be in their best interest.

Learn more about our jury consulting services and contact Magna today at [886.624.6221](tel:886.624.6221) for a free quote. ■

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**1 HILARY L. REMICK, ESQ.**  
DIRECTOR, SENIOR LITIGATION CONSULTANT

“The benefits of jury research can be dramatically heightened by conducting research **earlier than the “eve” of trial**. An early mock trial can help you use the discovery process to assess and refine themes. In a high value case, early research allows you to conduct iterative research exercises if needed, to tackle thematic problems more quickly, and to find out if you are taking a wrong turn.”



**2 DENISE M. MONTIEL**  
VICE PRESIDENT, LITIGATION SOLUTIONS

“Be clear on what constitutes clear visual communication. **Visual communication is not just “graphics”**: it's about distilling the facts and information in your case down into a clear, concise visual story that both teaches and persuades. Just because someone knows how to use graphics and illustration programs does not mean they have the knowledge or skillset to craft a strong visual message. Conceptual development is key, and getting the message across should always be the design priority.”



**3 TRENT S. KELSO, M.A.**  
SENIOR LITIGATION CONSULTANT

“Jurors tend to express the belief that there is almost perfect communication within a large organization, that management is able to exercise extremely high levels of control over employees and the actions of divisions or subsidiaries. This view likely prevails because most jurors have never had any exposure to the upper levels of a large organization and therefore **assume unrealistic levels of coordination and control**.”



**4 ERIC LALANDE**  
LITIGATION CONSULTANT

“Millennials are not the self-entitled jurors you may think they are. **Millennial jurors are the fastest growing demographic among juror pools**, and overall, millennials are the highest educated generation in history. These young adults feel like the socio-political system their parents created destroyed their opportunities for success. They do not live out of their parents’ homes out of laziness but out of necessity. Millennial jurors may be vindictive when it comes to judging corporate America but they can easily be educated. They also will typically listen to all of the evidence before judging the parties, while keeping an open mind.”



**5 PAUL SMITH**  
SENIOR CREATIVE CONSULTANT & DESIGNER

“A timeline is a supporting demonstrative for your spoken narrative. It should provide a visual overview of events, not a written record of every detail. If you are going to say it, then it doesn't need to be typed out entirely in your graphics. **Jurors can't listen and read at the same time.**”



**6 JULIE CAMPANINI, M.A.**  
SENIOR CREATIVE CONSULTANT

“When trying a case in front of a jury, **don't act like the smartest person in the room**. It alienates jurors (psst...they already know you are smart).”



**7 DAVE KURZMAN**  
COO LITIGATION CONSULTING GROUP

“When trying to determine the value of a case, one of **the most overlooked criteria in a verdict search is timing** (when the verdict came in). For example, verdicts in a specific trial venue from ten years ago will often be vastly different from the same fact pattern ten years later. Current events, public opinions and even age of the jury pool play a huge factor.”



**8 DANIEL HALENZA**  
SR. CREATIVE CONSULTANT, ANIMATOR & ILLUSTRATOR

“Design and decoration are two different things. **Beware of visual distractions** that impede the message your graphics are meant to convey. Simplicity is beauty!”



**9 RACHEL YORK COLANGELO, Ph.D.**  
NATIONAL MANAGING DIRECTOR OF JURY CONSULTING

When selecting (or de-selecting) jurors in 2017, be cognizant of the effect our recent presidential election has had on people. Sometimes referred to as the "Trump Effect," the polarizing nature of the 2016 election has increased tensions between people of different demographics and political affiliations and has hardened potential jurors' viewpoints, biases, and predispositions. Now more than ever, it is critical to identify characteristics that might impact how certain jurors will react to your case. Utilizing jury selection tools such as Magna's JuryScout social media surveillance will afford your trial team insight into potential jurors' attitudes, opinions, and biases, including how the Trump Effect might influence their perceptions of your case. Once critical characteristics are identified, you can make informed decisions about cause and peremptory strikes based on personal information jurors may not be willing to share during voir dire.



**10 PETER HECHT**  
THE SALES GUY

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# MARK AARONS

V.P. AND DEPUTY GENERAL COUNSEL, MODELL'S SPORTING GOODS

## What did you want to be growing up?

An electrical engineer. I was a ham radio operator and built a linear amplifier when I was 13. My high school guidance counselor said there was no future in electronics. It was probably one of the worst pieces of advice given to a student. This was in the 1970s, and the counselor thought that soldiers coming back from the Vietnam War with that training would take all the jobs. It was mostly TVs and radios in those days; there were no personal computers yet. But the counselor had no foresight into how the world might change. The guidance counselor should have said, "Follow your passion."

## So, any regrets about becoming an attorney?

No regrets because I wound up using electronics and math as I practiced law working alongside architects, contractors and engineers doing construction defense. I also worked with IT shops in the burgeoning computer world representing IBM business partners (VARs) that developed software.

## Your father's best friend and your father's only brother were attorneys – your



## Uncle Jonas Aaronson was a distinguished arbitrator. But you also got introduced into the legal system in a more unusual way.

I was a high school senior when I witnessed a triple fatal car crash. As two guys were drag racing down Cross Bay Boulevard in Queens, NY, a Ford Pinto started crossing the boulevard and was broadsided at more than 100 MPH by one of the racers in a Pontiac GTO. I had a clear view and the

crash created a small mushroom cloud like a mini nuclear bomb. I went over to the Pinto driver, who had intense internal injuries but outwardly, only a gash on the leg. I lifted his hand and there was no pulse. He died as well as his female passenger, whose body was split into pieces. A passenger in the back of the GTO also died. It stays with you forever.

The GTO driver and a front seat passenger survived. I remember the district attorney explaining the legal concepts to me and I appeared as a witness in court twelve times over two years. There were, of course, proceedings such as the preliminary hearing. Although looking back, even as a lawyer now, I can't figure out why it was 12 times.

But in the end, I heard the GTO driver was convicted of criminally negligent homicide.

## Did that experience give you faith in the legal system? Or not?

I don't think I exited with faith – or a lack of faith - in the legal system. But I was inspired by the experience because I am driven towards justice. I hate to see injustice at any level.

## You've got a Brooklyn trifecta going.

I was born and raised in Brooklyn, went to CUNY Brooklyn for undergrad (economics major), and Brooklyn Law School. Apparently, I wasn't allowed to leave. And by the way, my first legal job was in Brooklyn.

## There is no such thing as a typical day at work, but having said that, what is a typical day like at Modell's?

We have 160 stores and the bulk of my work is contract review, litigation oversight, marketing, trademark/licensing, and HR issues.

## What is the key to overseeing outside counsel?

Other than staying in regular contact with them, there is no secret sauce. But one of my pet peeves - one thing I think is effective – is to actually get on the phone and not count on email for everything. Not everything needs to be in an email, and I find things fall through the cracks with email. You know, you think you said one thing, and the reader thinks you said another. The problem is, our society has gone email crazy and I think the world has lost the art of communication: Drop the keyboard, get on the phone!

## You arguably have another, unusual aspect of your job.

I first became familiar with merchandising as general counsel for Candie's shoes. At Modell's, our merchants decide what colors, cuts, fabrics, and patterns to buy and I handle the relationship with the licensees from the legal side.

But I do check for quality to make sure that products fit into our clothing line. They don't teach you the weight of a denim fabric in law school, but I've learned to look at, and feel, fabric and know what a 13.2 ounce jean feels like. And when the licensee

is showing you something, you learn. Whoever thought that I would know what a wicked fabric is.

## How did you connect with Magna?

Pete Hecht, Magna Executive Vice President Sales, cold-called me several times trying to get me to his events. I kept turning him down because you get asked to so many events as in-house counsel. You often feel like the red meat at these events.

Then Pete invited me to the event at Naples, Florida. I love the town. My wife and I have a house down there. So I checked out the event. I was impressed; impressed by who Pete is, and the people around him. Two of the law firms I was already engaged with were at the event. Then Pete invited me to talk at one of his events. Now I'm a regular.

I feel a kinship with the people at Magna and like working with them. There is a collegiality that is very enticing and everyone seems on board with the mission statement of making lawyers comfortable and providing exceptional service.

I use Magna for my depositions, and all the law firms I work with - I oversee about 12 firms - are asked to use Magna.

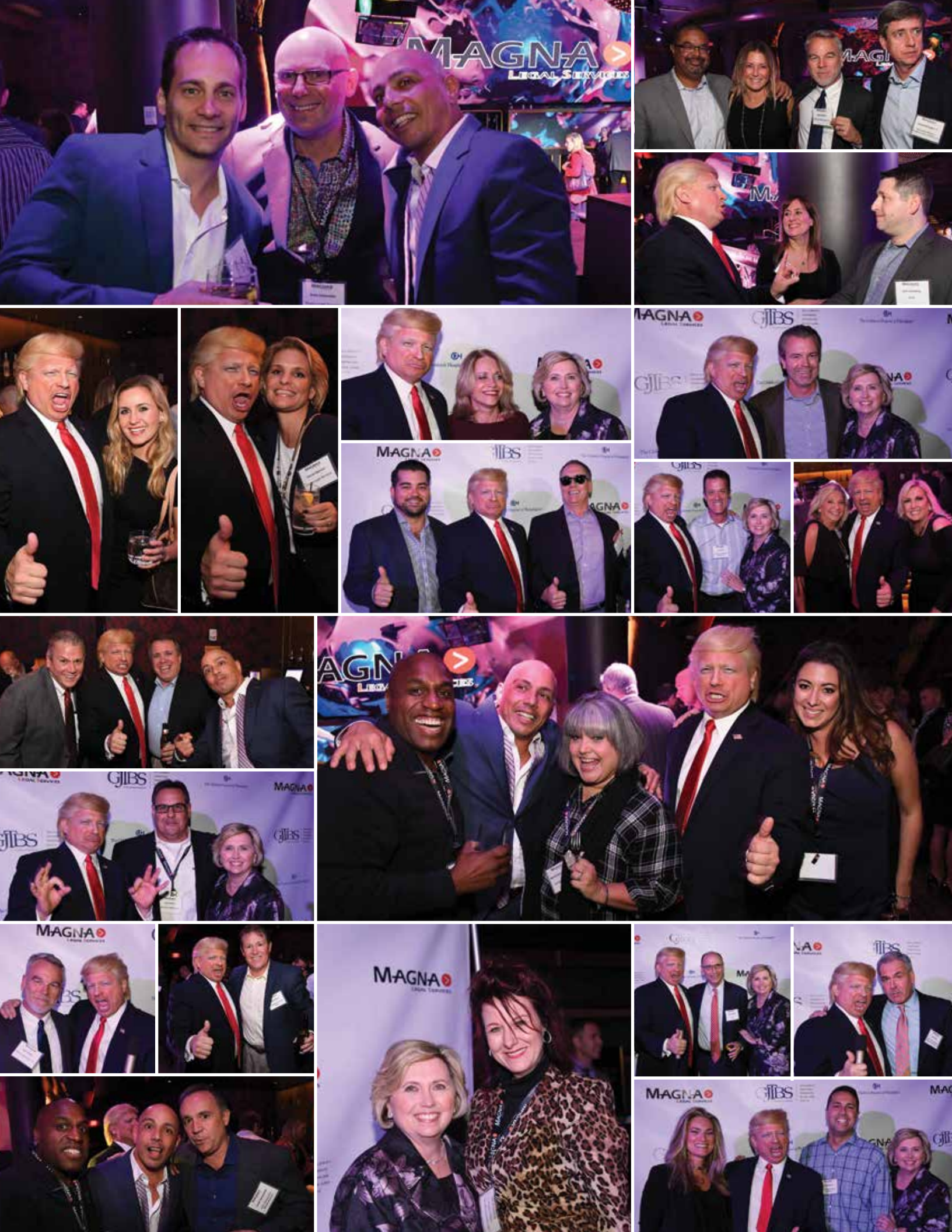
## Magna is also known for innovative events such as their CHOPPED mock trials/CLEs.

Magna events are incredibly well-produced. Their multi-media is unrivaled. When most seminars give you a fact pattern, it is written out. Magna has an actor play a newscaster and they come on screen to deliver the fact pattern. Magna has also had a great Donald Trump impersonator at the past couple of events.

Pete delivers events in a method unlike anybody else. It's incredible. He is one of the great marketers of all time. He gets branding. I am an admirer of his.

And the biggest compliment I can pay Pete is this: He makes being a lawyer at one of his events fun. ■





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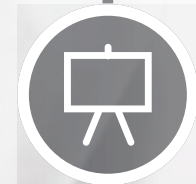
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