

# MAGNA<sup>></sup> FYI

DECEMBER 2018

## Chopped for CHOP

Photos from Magna's 6th Annual Chopped for CHOP  
(Children's Hospital of Philadelphia) Conference



**Interview with Larry  
DeRespino**

General counsel, U-Haul

**Jury Says – Test your  
jury knowledge!**

By Rachel York Colangelo,  
Ph.D., National Managing  
Director of Jury Consulting,  
Magna Legal Services

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National Managing Director of Jury Consulting,  
Magna Legal Services

# Editor's Note

*Peter Hecht | Partner and Executive Vice President of Sales*



"Tomorrow belongs to those who can hear it coming," so says David Bowie. Ain't that the truth! So twelve years ago we heard it, thought about it (a lot) and then boom .... we were making "Jerry McGuire" calls from a client conference room. Magna took the stage.

Along the way we changed the jury research industry with our groundbreaking online research tools, JuryConfirm and Jury Evaluator. Think Fortnite for mock trials. We did it by listening. Correction, my partners were, for sure. I'm grateful they have bigger ears than I do. Seriously, mine are normal. Theirs are REALLY BIG.

In the court reporting world our customers were loud and clear, so that was easy. They asked for cutting-edge technology, a personal touch and a perfect transcript. Our team hustles every day to deliver.

A bunch of tomorrows later we received the collective client word to help them bundle services. We answered that call, too, with a national platform for world-class record collection services. One stop for all your discovery needs became a reality! I really love that business.

All this in twelve super-fast years and we did our best to keep the cotton out of our ears to hear the next tomorrow. And now, tomorrow is here again with our new financial partners at CIVC. I'd like to call this serendipity, but the reality is the litigation support marketplace was talking and yes... we were listening! Our combined strength will enable us to respond to your voices quicker, implement new visionary change on a larger scale, and ultimately ensure that we keep listening for the next tomorrow!

Thank you for an amazing 2018. Looking forward to talking to anyone that will listen to us in 2019. Call me at 866-624-6221!

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belongs to those  
who can hear it  
coming."**

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# Closing Do's and Don'ts



**Do** – Bind the evidence to your theme and story.

**Don't** – Leave gaps. A jury will fill them for you.

*Richard Fabian • The RiverStone Group*



**Do** – Start framing your closing argument on day one. It will guide discovery and strategy throughout the litigation, ensure you develop the evidence necessary to make your case, and help you develop a compelling theme. Always be nimble, though, and ready to adjust even up to the last moment as you gauge reactions in the courtroom.

*Susan Metcalfe, Esq. • Potomac Law Group*



**Do** – Look each of the jurors in the eye and talk directly to each of them in terms that they will understand. Use the information about them that you learned in jury selection.

*Bob Kopka, Esq. • Kopka, Pinkus, Dolin*



**Do** – During your closing, give your favorable jurors the “evidentiary ammunition” to push the “undecideds” into your camp during deliberations. Tell your jury: “If someone points out X, then remind them that the credible evidence really supports Y.” Help your jurors help you!

*Ted Schaer, Esq. • Zarwin Baum DeVito Kaplan Schaer & Toddy*

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# Closing Do's and Don'ts



**Do** – Use a chronology or timeline (prepared by Magna) to coherently outline the significant events of your case. This can be a tremendous tool to assist the jury in focusing them on your themes and points of your case, whether it is an employment, auto accident or construction case, etc.

Be yourself and believe in your case. A genuine commitment to your case through zealous advocacy is critical to your closing argument.

*Michael Mazurczak, Esq. • Melick & Porter, LLP*



**Do** - Track the promises you made during your opening statement and explain how the evidence supports what you told them the evidence would prove. Ex. - I told you that plaintiff's economist lives on a planet where there are more than 24 hours in a day and more than 7 days in a week. He admitted to you that he failed to consider the time it took the plaintiff to commute, to eat, to sleep and to ... well, you know. It would have taken the plaintiff at least 28 hours a day to do everything this "expert" had him doing.

*Scott Haworth, Esq. • Haworth Barber & Gestman, LLC*



**Do** – Trust your themes. You have done the jury research. You opened by telling the jury to picture the house of facts you would build. You have spent trial giving them the building materials. Closing is the time for your blueprint to become a reality. Let them hear the evidence. Let them see the evidence. Show them how your themes are the blueprint to make that evidence fit together into an inescapable conclusion.

*Dennis Brown, Esq. • Gordon & Rees*



**Don't** – Read from a script. In closing argument, you must connect with the jury, demonstrate that you believe your case, and show the jury why your client should win the case. You can only do that by having a conversation with every juror in which you reiterate key themes based on the facts adduced during trial. "Show, don't tell" is the mantra.

*Joe Hassinger, Esq. • Galloway*

# Closing Do's and Don'ts



**Do** – “I hate Rabbits,” that is what my dad taught me to say when I was a boy around the camp fire and smoke got in my eyes from the fire. The shock of that will erase anything the plaintiff ended his closing with and you can say now let’s clear the smoke and start where you feel best for your case.

*Don St. Denis, Esq. • St. Denis and Davey*



**Do** – When posing a question to the jury in closing, you should always tell them both the question and the answer they should reach. Don’t leave the question open-ended and assume they’ll draw the same conclusion as you.

*Dorsey Miller, Esq. • Luks, Santaniello, Petrillo & Jones*



**Do** – Come full circle from your opening and show them that you made good on your promises.

**Do** – Keep it simple. Avoid convoluted stories and language.

**Don’t** – Don’t be flip or sarcastic. Remain warm, engaging and positive.

**Don’t** – Don’t assume jurors remember your key points. Highlight the important pieces of evidence they need to know.

*Julie Campanini, M.A. • Magna Legal Services*



**Don’t** – Introduce the verdict sheet at your closing argument. Introduce it earlier on so the jurors have a framework during the trial.

**Do** – “Tell them what you want to tell them” ~Anonymous Juror

*Ross Suter, Esq. • Magna Legal Services*







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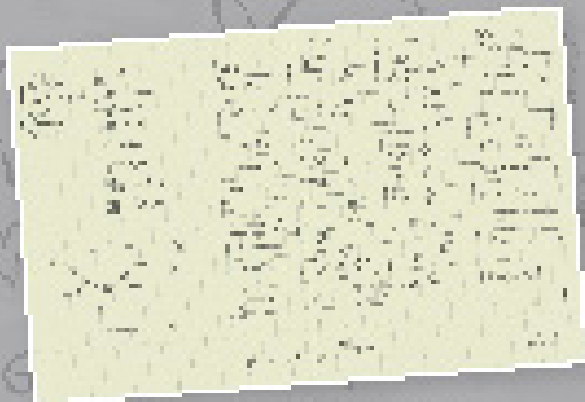






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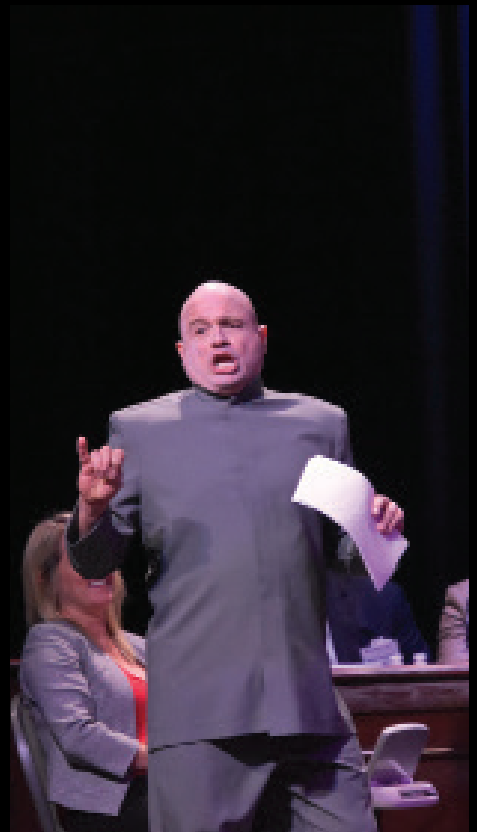
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# Magna One on One

## with Larry DeRespino

*Larry DeRespino is an attorney adept at using U-Haul trucks and trailers as well as U-Box containers. It's a fit for the Brooklyn native who is general counsel of the well-known moving and storage company. Out of college he pursued a career in professional baseball (he played first base) but eventually found he could translate his skills on the baseball field into courtroom acumen. He likens his job as general counsel to managing a diverse law firm. And those people on the side of U-Haul trucks and vans? Some of them are actually DeRespino's co-workers.*

**Magna: I figure Brooklyn has changed a lot since you grew up there.**

DeRespino: Significantly. It's more gentrified and expensive to live. When I go back there, I think about the places I wouldn't venture when I was growing up. Now I couldn't afford to live there.

**As the adage goes, do you ever think you should have bought real estate back then?**

I have thought about what could have been.

**You went to Amherst College.**

I was a good student and had Ivy League opportunities. But Amherst had an impressive baseball program in addition to top academics.

**And you pursued a baseball career after college.**

It was fun and entertaining but hard work. It's not as glamorous as people imagine. I realized I was better suited for intellectual endeavors.

**Why the law?**

My mom was a paralegal who worked for attorneys and that caught my interest. I met a lot of attorneys, including Louis Nizer. (According to Nizer's New York Times obituary, he was "a shrewd and voluble trial lawyer who made a long career of representing famous people in famous cases.")

**But you also make some interesting comparisons between playing ball and practicing the law.**

In both professions, there's winners and losers. There are "rules" of the game. You need a strategy. And both professions played to my competitive nature.

**You were playing ball in Chattanooga, you liked Tennessee, and you were admitted into the well-respected Vanderbilt Law.**

Nashville is another city that has changed since I lived there. It's larger, more modern and more cosmopolitan. Even the focus has shifted from the country and western music it's known for to showcasing other types of music.

Basically, everywhere I leave changes for the better.

**Let us know when you are leaving Phoenix. We will start buying real estate there. But how did you end up there?**

It's a part of the country I wanted to live in after law school and had done a summer clerkship for a major firm in the city with young, vibrant attorneys who were from somewhere else and were starting anew. They were talented, constructively aggressive and had a good trial group.

I got a job at the firm and it gave me a lot of opportunity to be on my feet: In the courtroom litigating cases. I mostly did defense work for businesses and corporations on issues ranging from employment to environmental to products liability. I did some plaintiff's work for employers also – non-competes, trade secrets when someone left the job, general contractors seeking compensation from a subcontractor.

One of my clients was U-Haul.

**I guess that's how you ended up at U-Haul.**

There's a lot of reasons. My firm ended up going through a merger and there was going to be shake-ups. U-Haul was a more stable job and it allowed me to focus on practicing the law – not having to worry about the business and financial aspects of running a law firm.

I was also drawn to U-Haul because it is a family business. You're reminded of that every day, from the way the company supports families to how the current CEO is the son of the founders and his sons, in turn, are part of the company. The family history is the company history.

**You don't just spend your time driving around U-Haul Equipment?**

There are 20 lawyers who work in-house for me. They in turn oversee lawyers in the United States and Canada. I work on projects for the CEO and board of directors. I am part of the business team and provide senior executives with legal counsel.

**You use Magna. And you will continue to use Magna.**

Magna did a mock trial for us in a case where we were the defendant. The case was valued at approximately \$125 million.

Magna was able to identify the issues that resonated negatively and positively for the jury, identify narrative themes, and pick the jury. Basically, helping us tell the best story and picking the people who would be most receptive to that story.

**What was the result of the trial?**

Defense verdict. We didn't have to pay anything.

### You also like the Magna CHOPPED seminar.

I recently attended my first one and was very impressed with Magna Executive Vice President Sales Pete Hecht, both his seriousness and his sense of humor.

### What is your favorite U-Haul product?

U-Box Containers. You can load the oversized box yourself and then tow it yourself, or have the company freight it. I've used it several times.

### One of the most identifiable aspects of U-Haul is probably the graphics on the side of the trailers with factoids and images from the different U.S. States and Canadian provinces. And in researching this article, I found that you can search for those images on your company website.

We take a lot of pride in those. We have a graphics department and the CEO gets involved in choosing them. We try to find something that's quirky – we don't use the Empire State Building to illustrate the state of New York.

### What's a quirky factoid about your quirky graphics?

We use our own people as models. One of my favorites is the truck with a stagecoach graphic depicting one of the Canadian provinces. The man on the stagecoach works for U-Haul who happens to be Canadian. So, every time I see that one, I see my co-worker.

It's the same for the vans – U-Haul employees are used as models during photo shoots. Many of them end up on the side of U-Haul vans. One of those people is an Assistant General Counsel!!

# Jury Says...

Test your jury knowledge!

Rachel York Colangelo, Ph.D.  
National Managing Director of Jury Consulting



1. **When is the best time to conduct jury research?**

- a.) Six weeks before trial, after all settlement attempts have failed.
- b.) As soon as discovery closes.
- c.) Relatively early on in discovery.
- d.) Never

2. **What is the purpose of jury research?**

- a.) To identify pro-plaintiff versus pro-defense jurors.
- b.) To identify our key themes and most effective storyline.
- c.) To identify strengths and weaknesses in the other party's case.
- d.) To identify strengths and weaknesses of key witnesses.
- e.) All of the above

3. **When should you begin to prepare fact and expert witnesses for their testimony?**

- a.) A few days before trial.
- b.) On the eve of their trial testimony.
- c.) Prior to their deposition.
- d.) After their deposition.

4. **A 30(b)(6) witness doesn't need to know many details about the case. The best bet is for them to answer case-specific questions with, "I don't know," or, "That's not my department," or, "I don't get involved in those details."**

**True** – The less a 30(b)(6) witness says, the better.

**False** – Jurors will expect the corporate designee to have some case-specific knowledge. Otherwise, they will wonder why the defendant did not provide another witness who does have relevant knowledge. If the corporate designee knows nothing about the company's day-to-day operations, safety training & policies, etc., jurors will wonder who does – it creates the impression of a culture of negligence.

5. **C-Suite executives do not need to be prepared for deposition or trial testimony.**

**True** – C-Suite executives are already polished, professional, articulate and good at public speaking. They know what to say and will present well.

**False** – While C-Suite executives may have all of the above characteristics, they may also have characteristics that make them unlikeable or un-relatable to a jury, such as arrogance, impatience, too long-winded or too curt. These witnesses need just as much preparation as any other.



# Be Greater Than!