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The Closer

Steven Molo had a vision for the perfect firm; then he created it.

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In the fall of 2015, Sheldon Silver, the longtime New York Assembly speaker who was under indictment over federal corruption charges, was getting hammered in the press in the months leading up to his trial in the Southern District of New York. Much of the criticism of Silver was being driven by comments to reporters from then U.S. attorney Preet Bharara, a prosecutor at the height of his power and popularity.

So Joel Cohen, the Stroock attorney running Silver's defense, called on Steven Molo. At a hearing, Molo prepared an unexpected motion to, in effect, gag Bharara against trying the case in the press. The motion, several inches thick, included hundreds of pages of news clippings of Bharara's quotes.

"Molo strode into the courtroom with the motion and massive appendix and dropped it on the prosecutor's desk," Cohen recalls. "Few lawyers are willing to take on the U.S. attorney that way. And it clearly had an impact."

Unexpected motions can be risky in high-profile federal criminal cases, but this one worked. It derailed the prosecution's momentum during the weeks it took for Bharara's office to answer the motion, and then the judge responded by chastising Bharara.

"The result was that, until the trial began some months later, every single story about our client—and many were extremely negative about him—discussed the fact that Bharara had been reprimanded by the judge," Cohen says. "The motion and the way it was brought helped create that balance."

Steven F. Molo

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Molo is a lawyer who isn't afraid to make unexpected moves—and not just in court. Midcareer, he left a senior litigator position in one of Chicago's major firms for a venerable white-shoe firm in New York. "People thought it was crazy," he says. A few years later, he surprised everyone again by swapping the stability of a white-shoe firm for a startup's risks and rewards. "I realized there were opportunities outside the big-firm setting," he says.

He breaks the mold in other ways as well. In an age of specialization, Molo handles both civil and criminal cases, in both federal and state courts, from quiet investigations and settlement negotiations to trials and appeals. His practice is primarily high-stakes business litigation and white collar criminal defense, with some IP tossed in. At least 80 percent is in trial courts and the rest appeals. "That would be terribly boring if every day I went to work on the exact same type of case," he says.

His clients have been the famous and the infamous, the accused and the accusers, the heads of major corporations and the salaried employees who blow the whistle on major corporations. Last year, he drew headlines for refusing to represent a certain temporary resident of Washington, D.C., who was beleaguered with a Russian problem.

DURING A RECENT MONDAY mid-morning conversation in his corner office over Park Avenue, Molo noted that his firm's floor plan doesn't segregate partners, associates and support staff. "It's purposely designed to facilitate interaction and collaboration," he says.

Wearing a suit and a white shirt with the collar open, Molo talks easily about his unlikely path to these offices.

He was born into a Polish-American family in Roseland, a working-class neighborhood on the far south side of Chicago. He still gets together with some of the kids he met attending the local Catholic grade school. Over 6 feet tall and rangy, Molo was a decent high school basketball player and a better golfer. He posts about 30 scores a year, including an annual spring getaway with a group of golfing pals who are in private equity and real estate.

Molo tended bar while attending the University of Illinois, and during summers painted boxcars in the factory where his father worked. After getting his J.D., he worked as a prosecutor with the state attorney general in Chicago; four years later he joined Winston & Strawn, one of Chicago's leading corporate firms. He married a doctor, Mary Wood, they had four kids, and he settled into life as a top partner, on the executive committee, at a respected firm.

One day, Molo took a call from a headhunter. He hadn't been looking for a job, but "I was unhappy with my partners about something, and I can't even tell you what it was," he says. "He caught me on the right day."

He wasn't interested in that particular offer, but the call made him realize he wanted to make a move. Eventually, in 2004, Molo joined Shearman & Sterling, seeking the challenge of joining one of the world's dominant law firms on the biggest legal stage. "New York has got sort of a unique place in the business world and the legal world," he says.

Molo had a productive 5 ½ years there but chafed at the cases he was not allowed to take because of conflicts within the firm. He began dreaming about the perfect law firm: nimble, transactional, entrepreneurial, where highly skilled lawyers take on the cases and clients they feel passionate about. A firm where everybody is a team player.

He found a fellow dreamer in Jeff Lamken, an appellate attorney who has argued two dozen cases before the U.S. Supreme Court. With their own money, they opened MoloLamken offices in New York, Washington, D.C., and Chicago in 2009. They've never taken a loan. "We have sued most of the major banks," Molo notes. It helped that they were starting the firm as the country struggled in the midst of the Great Recession; Manhattan office space was relatively cheap, and clients were rethinking their relationships with law firms—meaning the opportunity to use alternative fee structures was available. Now about half MoloLamken's cases are on at least a partial contingency.

Molo talks little about past celebrity clients—including Oprah and Prince—or about saying no when a Trump representative asked him to join the president's defense team on the Mueller probe. The offer was a surprise, since Molo once represented Deutsche Bank in a lawsuit to recover a portion (\$40 million) of an outstanding loan (\$330 million) from the

original \$640 million that the bank had lent Trump. Trump claimed he didn't have to repay the loan—and that Deutsche Bank actually owed him money—because it was one of the banks that had caused the Great Recession. Molo fired back with a "withering document" on Trump, according to Newsweek, and the case settled when Trump paid up—oddly, with a loan from a different division at Deutsche Bank.

The White House, apparently not put off by the withering document, sent the invitation in the spring of 2018. Molo turned it down—but not for political reasons. "It was very much a legal issue," Molo says. "You can't take every case."

In a phone call from an SUV taking him to trial for a trade secrets case, Molo ticked off a handful of other cases he and his firm did take on. He's defending former CEO Martin Winterkorn in the Volkswagen emissions scandal. He has represented the shareholders that were suing Alibaba, the Chinese tech giant, and the Cherokee Nation in an opioid case. Molo led the retired NFL players' objection against the proposed settlement for concussion damages, and got them \$120 million more. Over the past three years, he says, MoloLamken has had cumulative wins valued at more than \$2 billion for its clients.

Asked for a common thread in his cases, Molo has a one-word response: "Complex."

Clients agree. "This is very complex financial information we're talking about," says Neil Margolies, general counsel of Tilden Park Capital Management, a major hedge fund manager. "Steve can take very complicated matters and make them simple."

Margolies compares Molo to a closer in baseball. But then Margolies corrects himself: A relief pitcher doesn't have to play both





offense and defense.

Awareness of what's happening outside the courtroom can be critical during a trial, Molo says. When Sheldon Silver came to trial in 2015, Molo and Stroock's Joel Cohen recognized that the jury would probably convict their client. However, they were closely watching a case before the U.S. Supreme Court that might relax the standard for corruption among public officials and bolster their appeal. During the trial, Molo played—and planned—for an appeal, introducing many similarities between the Silver case and the defense briefs in *McDonnell v. United States*, the Supreme Court appeal by former Virginia Gov. Robert McDonnell of his corruption conviction. At times, Molo adopted language straight from McDonnell's lawyers' Supreme Court arguments.

Silver was convicted at trial, but the Supreme Court decided in favor of McDonnell, and Silver ended up being granted a new trial.

"He's a great litigator," says Paul Basta, a partner at Paul, Weiss, Rifkind, Wharton & Garrison, who has hired Molo several times. He especially appreciates the way Molo—who co-authored the book *Your Witness*, a how-to on cross-examinations—approaches witnesses. "He reads people very well," Basta says.

"It's very different trying a case in Peoria, Illinois, than trying a case in the Southern

District of New York," says Molo, who has done both. "You can't use the same approach. You have to account for the differences in the jury pool."

LAST APRIL, Molo was reading not juries but potential hires—four applicants for associate positions at the firm. MoloLamken applicants are told they should have had at least one top clerkship, preferably with a federal judge. They should be entrepreneurial but collaborative. They should also expect to be interviewed by every other lawyer in the firm. Molo and the partners prefer to hire and train young lawyers from the ground up; they have never hired a partner who brings along a "business book" of previous clients.

These four latest applicants were all good, Molo says. Not just good, great. But the partners made an offer to only one. That candidate, as the last step for all new associates, will have a session with an industrial psychologist—just to make sure they fit in. Personality is important, Molo says, in a small, high-intensity practice where teamwork is a key part of the culture, and where everyone is expected to have a restless curiosity and be willing to take risks and embrace challenges.

"We are looking for team players who really work well with others," he says.

Within the first few months, new associates are sent for National Institute of Trial Advocacy

training, first for depositions and then for trials. "Virtually everybody in the firm is client-facing and goes to court," Molo says. The firm pays "above the standard Cravath scale." He likes to say the firm is family friendly, with no policy prohibiting working from home.

With 38 lawyers, including 13 partners, MoloLamken still has no formal management structure beyond weekly phone calls between the two founders and monthly conference calls with all partners. Molo and Lamken call the shots, but all partners—and associates, too—are urged to speak up whenever, wherever.

Pro bono, Molo adds, is part of the firm's DNA. "Our role is to provide access to justice," he says. Recent studies show lawyers average about 37 hours a year in pro bono work; the ABA encourages 50. Over the past two years, MoloLamken's lawyers have donated more than 8,000 hours—or more than 150 hours per lawyer per year.

Some lawyers strive to present themselves as humble and unassuming; Molo talks about confidence. "I think anybody who does this and is any good has a pretty high level of confidence," he says. "That's not to say you don't do stupid things from time to time or have judges tell you that you've done something stupid. But you have to have the confidence and belief in yourself. And ultimately that translates into clients having a belief in you."

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