



HOW MOLOLAMKEN PLAYS LARGER THAN ITS SIZE

By Cindy Larson

Super Lawyers talked with Steve Molo and Jeff Lamken, founders of the litigation boutique MoloLamken, about their decision to leave large law and form their own firm. Molo was a partner at Shearman & Sterling LLP in New York and Lamken was a partner at Baker Botts in Washington, D.C. before joining forces in October 2009. The firm handles complex business litigation, IP litigation, and white-collar defense and investigations in the US for clients around the world. They try cases and argue appeals, as well as handle arbitrations. The firm has offices in New York, Chicago, and Washington, D.C.

SUPER LAWYERS: *How did you connect?*

STEVEN MOLO: We worked together on the Ron Perelman Morgan Stanley case in Palm Beach. We both were brought in after things went sideways based on problems with e-discovery and the judge had all but directed a verdict on liability as a sanction. The jury awarded \$1.6 billion in compensatory and punitive damages against Morgan Stanley but we got that reversed and judgment entered in our client's favor.

SL: *How did that experience lead to the creation of the firm?*

JEFFREY LAMKEN: We actually worked together with four or five other firms on the Perelman case, but only top people from each firm. It was a great experience, and we thought, wouldn't it be great if you would have a firm made up of a small, professionally elite team really focused on results for the client?

SL: *Both of you left successful large-firm practices to open your own firm in the midst of a market decline. What motivated you to do it then?*

LAMKEN: We saw the market decline caused by the financial crisis as a great opportunity to launch a firm in which we could align our economic interests with those of our clients. The financial pressure caused by the crisis had a lot of people questioning the traditional big law model. People seemed receptive to something new.

SL: *What did you hope to accomplish that you couldn't at a large firm?*

MOLO: Well, the absence of conflicts was a big part of it — the ability to bring significant cases that you could never do at a large firm. And, of course, we now have the freedom to bet on ourselves with fee



Steven F. Molo and Jeffrey Lamken are the founding partners of litigation boutique MoloLamken LLP. Molo graduated from the University of Illinois College of Law. He began his career in Chicago as a prosecutor and was a partner and member of the executive committee at Winston & Strawn. He then spent five years as a partner at Shearman & Sterling LLP in New York. Lamken is a graduate of Stanford Law School. He clerked for Judge Alex Kozinski on the US Court of Appeals for the Ninth Circuit and Justice Sandra Day O'Connor of the Supreme Court of the United States. He served as an Assistant to the Solicitor General and was the chair of the Supreme Court and Appellate Practice at Baker Botts in Washington, D.C.

arrangements that reward success as opposed to time spent.

LAMKEN: Foremost in our thinking — and central to what Steve just mentioned — we have been able to build a team of A-plus people with our own strong culture and shared vision and approach to winning cases for our clients.

SL: *How would you describe that culture?*

MOLO: Our culture is open and collaborative — always trying to get the most out of each member of the team but recognizing that the team is far more effective than the sum of its parts. We also are entrepreneurial — with everyone from the two of us to our newest associates playing a role in identifying new opportunities and developing business.

SL: *How do you recruit and hire talent?*

LAMKEN: Our typical new associate is two to four years out of law school and has clerked for at least one judge, often two. They interview with every lawyer in the firm as well as with a consultant who helps us with professional development.

MOLO: Everyone we see has great credentials, but we are looking for maturity, self-awareness, an appropriate level of self-confidence. We highly value creativity — the ability to contribute to game-changing ideas, which is not something many law firms say.

SL: *What is your model for fee arrangements?*

MOLO: The model is one of flexibility and adaptability. The key is having our interests aligned with those of our client. The first question we

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ask any prospective client is, what does success look like? Then it is a question of how much risk will we be taking, what resources will we need to commit, how long is the matter going to last. We tend to spend a lot of time on due diligence.

LAMKEN: We often use flat fees paid once, or monthly, or at milestones within a case, with a bonus payment for achieving a particular result. There can be an extensive range of bonuses based on outcomes. It is helpful for the client to have some skin in the game. Some matters we handle on a full contingency.

SL: *Your firm has 23 lawyers, yet you compete on matters with the largest of large law. How do you staff?*

LAMKEN: Leanly and thoughtfully. With each case, we try to have the right mix of resources and skill sets in place, while still allowing our people opportunities to grow professionally. It is not a question of who is available to work on a given matter. It is about ensuring that the right resources are in place. That is why we take so much care in the hiring process.

We also train people. That means with programs like the National Institute for Trial Advocacy (NITA) training and the mentoring that occurs in small teams.

SL: *What does your docket look like now?*

MOLO: We have some amazing work, including nine cases on behalf of investors in mortgage-backed securities – each seeking between \$200 million and \$1.5 billion in

damages. Williams & Connolly, Jenner & Block, and Davis Polk oppose us. We have substantial plaintiff’s whistleblower cases in Boston and Los Angeles in which Covington is our opponent. We represent criminal defendants in a major public corruption case in the Southern District of New York and a major health care fraud case set for trial later in the year in Chicago. We have a securities fraud case for a major Citigroup investor seeking \$850 million and Paul Weiss is our opponent. We represent Laos in a Foreign Sovereign Immunity Act case against King & Spalding. There are four patent suits for an inventor of real-time data technology in Delaware with Wilson Sonsini and Morgan Lewis opposing us. We’re the lead objector in the National Football League concussion litigation. That’s a partial list.

LAMKEN: In the courts of appeals, our cases run the gamut. We have a wide range of patent appeals for plaintiffs in the Federal Circuit – appeals that pit us against the likes of Weil, Morrison & Foerster, King & Spalding, and Baker & McKenzie. We are also on the defense side in patent appeals for companies like Qualcomm. We usually have a role in something in the Supreme Court.

SL: *How often do you partner with other firms?*

LAMKEN: All the time. One of the great benefits of being focused and committed to excellence is if we need to go deeper or broader in a given case, we are free to work with people who are expert and

the right fit rather than “someone down the hall.”

MOLO: A big percentage of our work is with other firms. Some of our plaintiff’s work has us joint-venturing on a case or set of cases to share risk and the work.

Frequently, when a case looks like it will go to trial or there’s an adverse ruling in the trial court, a client recognizes it needs experienced trial or appellate counsel. We were hired on three high-profile trials within the last year within four months of the trial date. We were also hired on a significant Federal Circuit appeal after briefing and within 60 days of argument. Sometimes we work with another firm on those cases and sometimes we replace them altogether.

We do a fair amount of work with non-US clients and often we work with their home country counsel. We pride ourselves on playing well with others. ●

