

Steve Molo

They're Building It in NY, DC and Chicago by Paul Dailing

In 2009, the recession that had been plaguing the United States for two years went international, with the global GDP dropping for the only time since the IMF started keeping records in 1980.

In October 2009, U.S. unemployment hit 10 percent for the first time since 1983, according to the Bureau of Labor Statistics.

So, of course, October 2009 is the month Steven F. Molo decided to leave a plum position as a litigation partner in the Wall Street powerhouse firm Shearman & Sterling to strike out on his own.

“And not only that, we went out and signed leases for space in Washington, in the Watergate, and in New York in midtown Manhattan,” Molo, one of the founding partners of **MoloLamken LLP**, recalls, chuckling. “There were people who thought we were crazy. I think many of them were polite about it, and maybe didn’t say it directly to our faces. Although, a few did.”

Not only was it a big risk for Molo and Jeffrey Lamken, but the firm they wanted to form was also a new kind, one that started with five lawyers practicing only the type of law they wanted to practice.

“We had a very, very clear view of what we wanted to do,” Molo says. “We wanted to do complex business litigation, we wanted to do white collar defense, we wanted to do intellectual property litigation. And we’ve gone on to do exactly that in major cases.”

Five years later, no one thinks Molo and Lamken are crazy anymore. The firm has grown to 22 attorneys, with more to come this year, and added an office in Chicago. MoloLamken takes on clients from around the world but has still stayed close to the ideals of its founders.

That was the plan from the beginning, Molo says.

“We thought ‘Wouldn’t it be great to have a firm where you had basically A-plus people, you were able to remain not necessarily small, but at least not so large that you couldn’t control the quality of the people that you have, you would not have a lot of conflicts, you could take on interesting work, and also be able to bet on yourself financially based on the quality of the team?’”

It’s an ambitious laundry list, but one Molo’s colleagues feel he has accomplished.

“Steve is among the very best trial lawyers I have seen,” says MoloLamken partner Justin Shur. “He is a tenacious fighter, but always charming and engaging. We recently tried a case together, where I was able to see those qualities in action. On cross-examination, Steve eviscerated the government’s primary cooperator so deftly that the government



abandoned the witness's testimony in closing arguments, while at the same time managing to create a rapport with the jury."

Molo has accomplished these things through tremendous preparation, a creative eye, and by, he says, putting the right team around him.

"I and our law firm, MoloLamken, are basically the alternative to settlement," Molo says. "We have developed an incredible team of people who are not just talented, but very hard working, and they're creative. Where we add value to our clients is being able to quickly and effectively put together a litigation strategy and go execute on it."

Boxcars and Biographies

Molo was raised on the South Side of Chicago, the oldest of four children and the only boy. His parents taught him the value of hard work, his mother in administrative positions in credit unions and his father rising to management positions both in his factory and in his union. The elder Molo became president of his United Steelworkers Local at the age of 23.

"He didn't have a college degree, but he basically worked in, first a foundry, and then a plant that built boxcars," Molo says. "He had a management job involving industrial engineering, time study, that sort of thing. And I painted boxcars and built boxcars for a couple of summers while I was in college."

Even as a child, Molo was interested in the law, his bookshelf filled with legal biographies like Edward Bennet Williams' *One Man's Freedom*, Louis Nizer's *My Life in Court* and Adela Rogers St. Johns' *Final Verdict*, about her father, Earl Rogers.

"I would read books about lawyers, and courtroom lawyers, and thought that it would be an exciting and interesting way to live your life," Molo says. "It also provided an opportunity to sort of advance socially, to get ahead in your profession. And one that interested me, so that was pretty much what I had my sights set on from a pretty young age."

College took him to the University of Illinois, where he received his B.S. and his J.D. Then he returned to Chicago, joining the practice of law with a speed that might shock young attorneys today: Molo argued his first case in the U.S. Court of Appeals four days after becoming a lawyer.

"I might have had a long weekend off, and then I went to work in the Illinois Attorney General's Office for Ty Fahner, who was then the attorney general," Molo says. "And I got tremendous experience there. I mean, just outstanding experience it's very difficult for a young lawyer in the best of the law offices to get today. I tried criminal cases, I tried civil cases, I argued appeals, I wrote a brief that was argued in the United States Supreme Court less than a year after I graduated from law school."

While he relished his time on his feet in front of a jury, the young lawyer also enjoyed the more academic areas of law.

"Notwithstanding the fact that we were in

court a lot, I certainly took great pride in my brief writing and actually published a couple of law review articles while I was working at the Attorney General's Office at that time," Molo says.

In 1986, Molo joined Winston & Strawn, Chicago's oldest law firm. When Molo made partner in 1989 at the age of 32, *Chicago Lawyer*, a publication of Law Bulletin Publishing Company, profiled him, calling him a "practicing attorney with nitty-gritty street sense."

"Molo radiates a calm friendliness that could be mistaken for simplicity," the profile continued. "Opposing attorneys have made that mistake."

Those characteristics, particularly the calm friendliness and trustworthiness Molo conveys, are still evident in his practice today, says Gregory Joseph, a partner at New York- and London-based Joseph Hage Aaronson LLC and past president of the American College of Trial Lawyers.

"He is very creative in his approach to cases, and very successful in winning judges' confidence," Joseph says.

Joseph saw that trustworthiness in action when he and Molo were defending a sanctions hearing on behalf of separate clients last summer.

The judge was having trouble understanding Molo's client representative, who was fluent in English, but not a native speaker. As a courtesy, Molo began repeating his client representative's answers to the judge.

"She was so grateful that she asked him to do the same thing when the client was being crossed by the opponent," Joseph recalls. "That is a signal honor—the judge trusted him implicitly."

Molo did not abuse that trust by polishing or improving upon his client's responses to questioning. This honesty is typical of Molo, Joseph says.

"He was completely accurate in his translation, warts and all," Joseph says.

Attention to Detail

During his years at Winston & Strawn, Molo worked closely with firm partner, former U.S. Attorney for the Northern District of Illinois and current Winston & Strawn Chairman Dan Webb. Webb became a man Molo admired and whose career became a model for the younger lawyer.

"We tried a number of cases together, including a couple of very big cases, and I came to the recognition that if I wanted to be of a stature in the profession that would be approximating his, I couldn't just work for him," Molo says. "It was important for me to strike out on my own within the firm. And he was tremendously supportive of that, as were my other partners at Winston & Strawn."

The niche he developed within Winston & Strawn became the template for the work MoloLamken does today.

"As a result, I went about building my own practice there at the firm, doing pretty much the things that I still do today, which is a mix of complex civil litigation as well as white collar defense, and doing that both at the trial court level as well as with appeals," Molo says.

Molo rose in prominence at Winston & Strawn, joining the executive committee and becoming one of the largest equity holders in the firm in his last few years there. He would stay at the firm for 18 years.

"One day I got a phone call from a fellow who I knew from New York," Molo recalls. "We had done some programs together, and he had become a headhunter. He asked me if I'd be interested in talking to a firm that was really a New York-based firm but had an office in Chicago. And I wasn't really that interested in it."

There was some gentle prodding before Molo gave the idea another shot.

"And one thing led to another, and I talked to them," Molo says. "I wasn't really interested, but he said to me, 'You have already spent so



Molo with Professor Alan Dershowitz at a recent MoloLamken event at the Harvard Club in New York.

much time in New York on the cases that you have, now why don't you talk to some of the New York firms I know? I know that people would be really interested in talking with you."

One of the New York firms that was interested in talking with Molo also interested Molo a great deal.

"The Shearman & Sterling opportunity presented itself, and it was a pretty extraordinary opportunity," Molo says. "Shearman was then, and is today, one of the preeminent transactional firms in the world. It certainly is a traditional Wall Street firm, but it has a tremendous global reach that was fueled when it was the principal counsel to Citicorp as Citicorp grew throughout the world."

Citigroup, as Citicorp became after a 1998 merger, was only one of the firm's high-profile clients. The global firm, with 18 offices everywhere from Abu Dhabi to Rome, was primarily transactional at the time and was looking to bolster its trial practice. After nearly two decades, he left Winston & Strawn.

Two Big Risks

Looking back on his time at Shearman & Sterling, two particular cases spring to mind for Molo. One involved a huge risk in a case. The second led to one of the biggest risks of his career.

The first case was when he and his co-counsel Elkan Abramowitz decided to try to convince the U.S. government they were just wrong.

David Stockman is a former congressman from Michigan who served as director of the Office of Management and Budget for four years under Ronald Reagan.

In 2007, Stockman, who had long since left public life, was charged with accounting fraud and securities fraud in connection with the bankruptcy of a portfolio company of his private equity firm.

"We took a look at the evidence and spent a lot of time with it, even though it was millions of pages of records, and concluded that there simply wasn't a crime committed," Molo recalls.

With their research showing the bankruptcy was due to industry decline rather than fraud, the pair opted for the risky path of being open with their findings.

"My co-counsel—a good friend in New York—and I, we joked that we were either going to be the absolute dumbest lawyers in America or the absolute smartest lawyers in America," Molo says, "because we took the government's evidence and made a very detailed white paper presentation to them, telling the government why it was that they were wrong."

The U.S. Attorney's Office in the Southern District of New York listened. "To its great credit," Molo says, the office decided to drop the case.

"Had we not convinced them, it would have exposed our entire defense to them. But we felt so strongly about it that we were able to do it. The government actually dismissed the charges," he says.

That level of research isn't surprising to Shur. He sees it every day at MoloLamken.

"Among other things, Steve focuses on preparation and collaboration. His level of preparation and attention to detail is second to none," Shur says. "He also has an amazing ability to distill the essence of a complex set of facts down to a few simple themes. Steve will then work closely with the rest of the team to further develop and test those themes."

The second of the two cases that spring to mind from Shearman & Sterling led to the biggest risk—the creation of MoloLamken.

It started with a call from former Morgan Stanley Chief Legal Officer Don Kempf.

"Don called me up and said, 'How quickly can you come to Florida, and how many people can you bring with you?'" Molo says.

The Deck of a Sunken Submarine

Molo arrived in Florida to find a case in tatters due to e-discovery sanctions.

A West Palm Beach jury was about to award a financier \$1.6 billion over money lost in the 1998 sale of a camping supply company to one of Morgan Stanley's clients. The new team of attorneys Morgan Stanley brought down to Florida focused not only on sanctions, but also on excluded evidence.

They did this not to win the case, but to create an evidentiary record to use in the appeal they knew they would file.

"Basically what we did is build the case that the judge didn't allow to be put on," Molo says.

The judge allowed the new evidence to be filed, but followed through on her sanctions ruling. But the work the new team of attorneys did on the case led the appeals court to throw out the judgment—all of it.

"We got the judgment reversed. And not just reversed, but a judgment entered in favor of Morgan Stanley," Molo says. "They went from \$1.6 billion liability to zero liability on the case."

It was a staggering victory for any attorney, but for Molo, the biggest professional win was meeting Jeffrey Lamken, with whom he would later form MoloLamken. He was then at the Washington, D.C., office of Baker Botts LLP.

"Jeff and I always joke when we tell people the story of the firm—that we met on the deck of a sunken submarine. It was so bad, the Morgan Stanley case was in such bad shape, that it was not just in a sunken submarine but on the deck of it," Molo says.

The two enjoyed working together, but more importantly had the same ideas about what their ideal firm was like: smaller, more experienced, more focused on interesting work and interesting cases.

"The opportunity to go on and create something is very exciting," Molo says. "To have a vision of what you think a law firm should look like and be, and then to go out and face the challenges and see it through, that is tremendously rewarding."

A Different Approach

In October 2009, as unemployment spiked and the recession went global, Molo and Lamken hung a shingle.

MoloLamken's different approach starts with how they hire associates. While larger firms hire dozens or even hundreds of associates fresh out of law school, MoloLamken simply doesn't.

"No matter how good they are, our philosophy is just that we don't hire associates out of law school," Molo says.

Typical new hires are about two to four years into their career. They have clerked for at least one, but often two federal judges, improving their research and writing skills along with their understanding about how the judicial system works and how judges think.

"By that point in time, they've probably sorted a few things out in their mind about the practice of law, and if they want to come work with us, it's because they really understand what it is that we do, and they see themselves as committed to that kind of practice," Molo says.

The approach is also collaborative, with new associates working directly alongside the more experienced partners. That collaboration—and Molo's attention to detail—continue even after associates become partners themselves, as Shur can attest.

"In preparing for a recent trial, for example, we locked ourselves in a conference room with a white board where we walked through every witness examination, exhibit and jury address to ensure our themes would be effectively presented throughout the trial so that they would resonate with and persuade the jury," Shur recalls.

New hires receive National Institute of Trial Advocacy training as soon as they join. Past experience in non-law fields is put to good use—the firm currently has one associate with a tech background and another who worked on a trading desk.

"I always feel that conventional wisdom gets conventional results," Molo says.

This new approach to associates is as valuable to the firm as it is to the young attorney, Molo says.

"One of my mantras to them is that we want them to be as good as they can be, as fast as they can be that," Molo says.

Molo has been married for more than 25 years to Dr. Mary Wood Molo, a reproductive endocrinologist. They have raised four children, all currently in college.

From reading biographies of trial lawyers to working in the Illinois Attorney General's Office four days out of law school, from partnerships at two of the world's largest and most influential firms to forming his dream organization "on the deck of the sunken submarine," Molo's legal life has kept him busy, successful and, above all, happy.

"The fundamentals of what I do essentially haven't changed since I was 25 years old," Molo says. "I love it just as much today as I did then, and hopefully everyone else around here feels the same way." ■

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