

The Art of Middle-Market Deal-Making

Josef B. Volman is a partner and co-chair of the of the business law group at **Burns & Levinson**. A middle-market deal lawyer, Volman's clients include companies on the buy side and sell side, representing a wide range of industries. He is particularly fond of sports deals (he's a big fan himself), handling many high-profile deals throughout his career. The interview has been edited for length and style.

You have a huge practice handling lower-middle-market deals (\$100 million and under). Can you tell us about the work you do, the different types of clients you represent and what it takes to succeed in this space?

Josef B. Volman: I am fortunate to have a dynamic and growing practice representing both buyers and sellers in M&A transactions. On the sell side, I have represented a wide variety of entrepreneurs and institutional clients in several industries. I like to get involved early in the process, working with clients to prepare them for the sale process – guiding them through what to expect and how everything will progress – and helping them maximize the value of their transaction. On the buy side, I represent both public- and private-company acquirers, as well as middle-market private-equity firms.

I think that what makes me unique is that I bring a practical and commercial approach to each transaction. In the middle market, there are always issues that arise, and having a lawyer who can work through the issues in a constructive way can pave the way for a deal to go forward. My practice has grown dramatically because I am highly focused on making sure everything I do for clients adds value to their bottom line. On the sell side, I frequently make introductions to the right investment bankers who can facilitate a transaction. I have been able to provide deal flow to my private-equity clients on the buy side who are looking for proprietary opportunities that they might not otherwise see.



The best middle-market deal lawyers know how to solve problems and gain consensus.

High-profile corporate sports deals are one of your areas of expertise. How did you first get involved in the sports industry, and what are some of the most interesting projects you've handled?

Volman: I did my first sports deal when I began representing a startup based in New York, with offices in Silicon Valley, called Sportvision, which was founded by three entrepreneurs who were leaving Fox Sports to start a sports-technology company. Sportvision is best known for its Emmy Award-winning Virtual Yellow 1st and Ten line, its MLB pitch and strike-zone tracking system, and its NASCAR tracking and pointer system. I worked with Sportvision for over 20 years – from getting their first round of financing when the company was formed through their many deals with leagues and network television stations through their exit and acquisition by SportsMEDIA Technology in October 2016.

That initial engagement led to many other sports opportunities, including representing an entrepreneur who has bought and sold six minor league baseball teams and one basketball team as well as other sports technology companies and sports franchises. I recently represented two different groups who were buying minor league hockey franchises.

As a big sports fan, it has been a lot of fun doing deals in this space.

Over the last 15 plus years, you have helped numerous investors buy and sell minor league sports teams. Tell us more about these deals and what makes them different than your other M&A deals.

Volman: These deals are very interesting because they involve several legal areas of expertise. First, there is the acquisition of the team, which is similar to a typical acquisition, but you have to review the franchise agreement, trademark rights and other issues specific to sports franchises. The financing aspect is often very different, since many of these deals involve raising money from large groups of investors who like to invest in sports franchises. Then there is a regulatory aspect, where you have to seek approval from the league, which involves knowing how to complete the application in a way that will be acceptable to the minor league as well as the major league. One of my favorite deals was selling a minor league baseball team to Cal Ripken, who is a major-league legend and someone I admired as a fan.

You recently represented the Modesto Nuts in an important deal with the Seattle Mariners. What happened, and what were some of the biggest challenges with that deal? What deals do you have on the horizon?

Volman: We represented the Modesto Nuts in their groundbreaking sale of a majority interest to the Seattle Mariners. The deal marked one of the first times a Major League Baseball (MLB) team became a majority owner of a minor league team, so we had to be creative about a new structure that complied with complicated MLB rules while allowing the Modesto Nuts to continue to run the

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day-to-day operations of the team. It really was a win-win situation for all parties involved.

It was a complex balancing act between the needs of the Seattle Mariners and the needs of my client, who was the owner of the Modesto Nuts. In the end, the general counsel of the Mariners was a terrific lawyer who really brought a practical and businesslike sense to the transaction. Together, we were able to come up with a corporate structure and management agreement that addressed all of the issues in a way that we don't think has ever been done before – while making both of our clients and the league happy.

My next deal involves a minor league soccer team, but I can't talk about it because I'm in the middle of it now. Suffice it to say that minor league soccer is a hot new area for investors with a lot of potential for growth.

M&A deals involving family businesses are another niche that you have developed over the years. What issues can derail these deals, and how do you overcome them?

Volman: Representing family businesses requires me to be part psychologist and part lawyer. If I weren't a lawyer, I think I would have been a psychologist, so I get to use this skill set when I'm working on deals involving family businesses. Unfortunately, money can be a source of intense division among families, and the resulting family dysfunction often plays out in the boardroom. My number one objective is to get each family member to focus on what is really important, which is maximizing the value of the business so that they can get a good return as a shareholder. It can take a lot of effort to smooth everyone's sensitivity to the various personal and business issues, but I believe I have been very successful in getting all of the stakeholders to put aside their family dynamics to be professional and work together.

What was the most difficult family-business deal you have ever handled, and how did you get to "yes?"

Volman: I once dealt with a family business where the parents and children were not talking to each other and could not agree on a path forward. We decided to get in a room and make a list of the issues bothering everyone and try to forge a successful solution. We ended up selling the business for a lot of money and the family got back together. Sometimes the best way to resolve issues is with hands-on, face-to-face negotiation where everyone feels engaged and validated.

You handle a lot of M&A deals in the software industry. Why is this such a hot area, and what types of trends are you seeing?

Volman: There is so much room to create efficiencies in business through automation. I have represented several software companies that are providing niche industries with ways to become automated. For a while, enterprise software was a hot industry, and then it fell out of favor. But now software as a service is back; it's very popular and it's growing in a variety of industries. I now see many of these companies getting into healthcare IT – there is a lot of opportunity in this space and a lot of money chasing these deals.

You have a strong track record of closing deals – what is your secret to success?

Volman: I really do think that there is a special touch required to manage deals in the lower middle market. Many of the sellers are first-time sellers and are not used to the M&A process. It is the first time that their business is under such scrutiny, and the areas where they may have lacked certain financial or other disciplines become exposed. This can

be very stressful for a seller. Also, for many sellers, their entire net worth is tied up in the business, which means they are highly dependent on the success of the transaction.

For many buyers in the lower middle market, they have to find a way to conduct serious due diligence without alienating the seller or killing the deal. On the sell side, I try to help my clients anticipate which areas may be an issue in the deal and find a way to address them in advance. On the buy side, I try to expose issues of concern but work with the seller's counsel to find resolutions. My style is to develop a trusting and constructive relationship with the lawyer on the other side of the transaction, so that we can solve issues together, since ultimately we both want to get to a closing.

In your management role, as co-chair of the business law group, you oversee a large team of attorneys and have a reputation for being a strong mentor. What advice do you give young attorneys on building long-lasting client relationships?

Volman: I tell them that they need to build the relationship before they make the sale. I have a friend who has been in sales his entire career, and that was his advice to me. Many of my clients are friends or business associates with whom I developed a trusting and collaborative relationship for several years before they became a client.

It's also important to give help to others before asking for anything in return. When I meet a business prospect or referral source, I first try to find out how I can help them grow their business or make introductions for them well before asking them to do anything for me. We are in the business of building goodwill. If you are really intending to build a long-term career as a lawyer, you need to plant seeds and be patient enough to have them grow several years down the road. I am fortunate that seeds that I planted years ago have now ripened into business.