

Startup Lawyering 2.0

Insights

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This Article describes the day-to-day work of lawyers who advise startup companies. Drawing upon interviews with practicing attorneys in New York City and the Research Triangle of North Carolina, it distinguishes the practice of startup lawyers from the practice of other types of corporate lawyers. In so doing, the Article aspires to update and expand upon a sociological study published in 1996 that described the distinctive character of the work performed by startup lawyers in Silicon Valley. This earlier study provides an account of what we call “Startup Lawyering 1.0.” In this Article, we describe the work of startup lawyers outside of Silicon Valley circa 2016. In so doing, we provide an account of what we call “Startup Lawyering 2.0.”

We first describe how startup lawyers serve as transaction cost engineers by preparing prepackaged documents, by utilizing standard forms, and by providing nonlegal advice to their clients. We then show that startup lawyers serve as reputational intermediaries by screening clients and by vouching for them with investors. We also show that startup lawyers serve as regulatory compliance experts, transmitters of norms, and designers of innovative billing schemes.

We further argue that West Coast norms of startup lawyering have migrated to other startup ecosystems in the United States. The key distinction for lawyering practice in the startup space today, we argue, relies less on geography and more on whether a lawyer is what we call a “startup law aficionado.” Startup law aficionados can be found in any geographical region, though they tend to be clustered in technology hubs. Silicon Valley is still such a center of gravity in the startup world that startup law

aficionados outside the Bay Area will inevitably come into contact with Silicon Valley startup lawyers and venture investors. As this occurs, the lawyering practices of startup law aficionados outside of Silicon Valley increasingly reflect those of their counterparts in Silicon Valley—and repeated exposure only increases the effect.

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