

# Startup Lawyering 2.0

Insights

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Startup lawyers are lawyers who represent early-stage companies as they seek to raise capital and grow their businesses. In many respects, the work performed by these attorneys resembles the work of a traditional corporate lawyer. They draft contracts, negotiate with opposing counsel, and generally seek to facilitate transactions that their clients wish to pursue. In a number of other respects, however, the work performed by these attorneys is quite different from the work of a typical corporate lawyer. Startup lawyers often represent founders who have little to no experience running a business. They must sometimes wait for months—or even years—to be paid. And they are often asked to introduce their clients to potential investors, a task that typically falls to investment bankers in more traditional corporate dealmaking.

In a forthcoming [article](#), we provide a comprehensive account of the work performed by startup lawyers in the United States. Drawing upon interviews with attorneys in New York City and the Research Triangle of North Carolina, we show that startup lawyers act as transaction cost engineers by preparing prepackaged documents, by utilizing standard forms, and by providing non-legal advice to their clients. We show that startup lawyers serve as reputational intermediaries by screening their clients and by vouching for them with investors. We show that startup lawyers function as regulatory compliance experts and transmitters of startup community norms. We also show that startup lawyers utilize innovative compensation schemes—such as deferring fees and, in some situations, taking equity in lieu of cash—to maximize the

likelihood that they will someday be compensated for services rendered to their cash-strapped startup clients.

Finally, we show that—notwithstanding the many similarities discussed above—there exist several noteworthy differences in the ways that startup lawyers practice law in different parts of the United States. These differences generally track differing regional approaches to startup investing. Scholars and commentators have long framed these differences in terms of a dichotomy—West Coast (Silicon Valley) vs East Coast (Boston). Venture financing contracts on the West Coast were said to be more favorable to the company because Silicon Valley VCs viewed their relationship with portfolio companies as a “partnership.” Contracts on the East Coast, by contrast, were said to contain deal terms that were less favorable to the company because East Coast VCs took a more “banker-like” approach to their portfolio companies. Importantly, however, it appears that repeated exposure to companies in Silicon Valley can and does result in East Coast VCs adopting more company-friendly deal terms in subsequent deals. The more deals that East Coast VCs do with Silicon Valley-based companies or alongside Silicon Valley-based VCs, in other words, the more their deal terms come to resemble the terms used by their counterparts on the West Coast.

Our research suggests that a similar effect may be occurring when it comes to startup lawyering practices—that West Coast startup lawyering practices are increasingly migrating to other startup ecosystems, resulting in the decreasing relevance of the East Coast/West Coast dichotomy. We posit, therefore, that the key distinction for lawyering practice in the startup space today relies less on geography and more on whether a lawyer is what we would call a ‘startup law aficionado’, someone who is in-the-know and steeped in startup community norms. 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 San Francisco Bay Area inevitably come into frequent contact with Silicon Valley startup lawyers and venture investors. As this occurs, the lawyering practices of startup law aficionados outside of Silicon Valley increasingly appear to reflect those of their counterparts in Silicon Valley—and repeated exposure only increases the effect.

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