

100% on Corporate Equality Index

— Human Rights Campaign Foundation

Tech + Capital Markets Practice Groups of the Year

— Law360

Transatlantic Litigation Team of the Year

— Transatlantic Legal Awards

6x ranking on 100 Best Companies to Work For list

— Fortune

Healthcare & Life Sciences International Firm of the Year

— China Law & Practice Awards

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Karen Deschaine, Partner, and Kevin Milgram, Associate—Business

Cooley partner Karen Deschaine’s practice encompasses a wide range of business and corporate matters, including private financings, public offerings, corporate governance, commercial transactions, strategic transactions, securities matters, and the general representation of public and private companies. She represents primarily biotechnology and technology companies and investors in those industries. She is a sought-after speaker on topics of interest to founders, startup companies, and companies seeking investment, including presenting for organizations and events such as GeekGirl, EvoNexus, VETCON, and mystartupXX. She also frequently teaches “CooleyU” sessions at the firm’s San Diego office.

Cooley associate Kevin Milgram’s practice focuses on the formation and financing of emerging companies and M&A, as well as counseling companies regarding general corporate matters. He represents clients in a range of industries, including information technology, national security, unmanned aircraft, cybersecurity, and software. His practice additionally focuses on veteran-owned startups. He also advises a number of leading venture capital and private equity firms. While in law school, Kevin was a member of the *University of Richmond Law Review*, the McNeil Law Honor Society, the Client Counseling and Negotiation Board, and the Veterans and Military Law Association.

Describe your practice area and what it entails.

Karen: The emerging companies practice area is primarily focused on private-company clients, most of which are innovative, high-growth companies. For me, in particular, it entails working with venture-backed companies and working with venture funds on their investments in private companies. However, I also work with public companies—primarily pre-revenue biotech companies—and I consider that a key part of my emerging companies practice. Even though these companies are publicly traded, they are typically young companies (less than 10 years since inception) and require much of the same advice, in addition to the SEC regulatory advice.

My practice is best described as the “general counsel” for my clients. Most do not have any in-house lawyers, and they use me in a way that they would use their general counsel. I counsel my clients on all things that are corporate/transactional and bring in resources at Cooley for matters outside of that, such as litigation and regulatory counsel.

Kevin: I help high-growth startup companies navigate critical phases of growth, from formation to raising money to selling their companies and everything in between. I also help investors put capital to work through investments in high-growth startups. I love playing a role in my clients’ successes as a front-line member of their teams.

What types of clients do you represent?

Karen: I represent clients of varied sizes, including true “start-ups” that are pre-funding or founder-bootstrapped, angel-and/or venture-backed private companies, and publicly traded companies. In most cases, the public companies that I represent started out as private company clients; some I even initially incorporated and continued to represent from inception through becoming a public company.

My clients are primarily in the biotechnology industry, including pharmaceutical development, medical device, and medical diagnostics companies. I also represent venture funds that invest in this space on their financing transactions.

Kevin: I represent high-growth startup companies, ranging from newly formed companies to companies on the verge of an IPO. I also represent a number of venture capital and private equity funds that invest in high-growth startups. I work with clients across a wide variety of industries, but most of my clients operate in the national security, cybersecurity, information technology, and aerospace industries, many of which are founded and led by military veterans. It’s rewarding to know that I’m a part of an ecosystem that consistently introduces game-changing innovations that keep people safe and improve quality of life. As a fellow military veteran, it’s also particularly fulfilling to help clients founded and led by military veterans achieve their goals.

What types of cases/deals do you work on?

Karen: I do a lot of equity financing transactions, including convertible debt financings, venture financings, and public offerings. As an emerging companies lawyer, however, I also help my clients with just about any other sort of transaction you can imagine, including commercial agreements, employment agreements, and debt financings. I also provide a lot of corporate governance advice.

Kevin: I spend much of my time advising clients regarding key transactions like venture capital financings, private equity financings, and mergers and acquisitions. I also act as de facto general counsel to early stage startups that don't have an in-house lawyer, and, as such, I routinely provide advice on a wide variety of corporate/governance matters.

How did you choose this practice area?

Karen: I chose this practice area because it is one of Cooley's strongest practices and also because I love working with young companies. I particularly like the opportunity to help these companies grow and succeed, and I enjoy working directly with C-level management.

Kevin: I left active-duty military service prior to law school and quickly realized that I missed the feeling of contributing to our country's security. I was determined, following law school, to continue to contribute via the private sector. Working with high-growth startups on the cutting edge of critical national-security-related advancements (and those who invest in them) has allowed me to continue to contribute in some capacity.

What is a typical day like and/or what are some common tasks you perform?

Karen: A typical day is hectic. There is rarely a day that I work on fewer than 7-10 different clients' matters. Also, there is frequently an urgent situation that needs attention. I spend my days drafting/reviewing client deliverables, taking phone calls, attending meetings, interacting with the firm's specialists, and—of course—reading email.

Kevin: Among the most common tasks I perform is reviewing term sheets, financing documents, and acquisition documents. I then advise my clients regarding key legal and business terms and negotiate terms with other parties. Automated document drafting software has reduced the time required to prepare certain transaction documents that tend to follow a generally accepted form, which allows lawyers like myself to dedicate more time to advising clients on implications of key terms and other tasks that add real value. While there are certainly common themes and market terms across transactions, each

deal inevitably has unique problems to solve that keep things interesting. Notably, I rarely work alone. Typical tasks involve working as a team, and I'm fortunate to work with some of the best and most capable people I've ever met.

What training, classes, experience, or skills development would you recommend to someone who wishes to enter your practice area?

Karen: I went to business school before law school, and while certainly not required (or necessarily recommended), I picked up a number of helpful skills there. These include tangible skills such as using Microsoft Excel and the intangible skills related to being business minded. Short of business school, learn how to use Excel—that will come in handy for anyone who will be working on a lot of financing transactions.

Kevin: My recommendation to anyone wishing to practice in the emerging companies and venture capital practice area is to take financial accounting and corporate tax courses. I use information I learned in these courses nearly every day in my practice. I would also suggest reading articles and blogs related to financing terms and trends. (Excuse my bias, but Cooley GO is an awesome source that is frequently updated.) Lastly, practical work experience of any kind is always a plus for emerging companies and venture capital practitioners.

What do you like best about your practice area?

Karen: I like that every day is different. On most days, I am advising or working on matters for a variety of clients, and, inevitably, there is a client-related issue needing my attention that I didn't know about when I woke up. It is fast paced and requires a lot of thinking on my feet.

Kevin: I really enjoy regular non-email interactions with clients, getting to know their businesses, and engaging in creative problem solving with clients on a wide range of matters. The emerging companies and venture capital practice area has afforded me opportunities to do all of these things beginning very early in my legal career.

What misconceptions exist about your practice area?

Karen: I think there is a misconception that emerging companies lawyers only work for brand new companies and spend their time incorporating clients and handling only startup matters. While that is a piece of an emerging companies practice, it is not the case that once they are incorporated, clients move on to other attorneys at the firm. In fact, it is quite the opposite, and I typically represent my emerging companies for their entire life and help them through the myriad of legal and business issues along the way.

Kevin: Some people have the misconception that emerging companies and venture capital lawyers (and perhaps all transactional lawyers) simply take forms and fill in blanks. Of course, I try to leverage sample and precedent forms whenever possible for efficiency, but I spend the bulk of my time advising clients regarding the terms of documents and developing strategies to reach the clients' desired objectives.

What are some typical career paths for lawyers in this practice area?

Karen: Emerging companies lawyers are best served by starting at a law firm, ideally a large law firm with many, many emerging company clients. From here, a lawyer could move to a smaller firm, open their own practice, or move in-house. This is because an emerging companies lawyer deals with so many different areas of corporate law on a day-to-day basis—including corporate governance, securities, employment, contracts, real estate, tax, and M&A—and the best way to learn is to get exposure to as many company clients as possible.

Kevin: Aside from a linear career path where an associate develops his or her skills and earns an invitation to join the partnership, there are also many other paths available to emerging companies and venture capital lawyers. There are always opportunities to go in-house with a client, whether it be

a startup company or investment fund. In addition to in-house legal opportunities, emerging companies and venture capital lawyers sometimes choose to leverage their skills in a purely operational or business role. There are also plenty of examples of emerging companies and venture capital lawyers working in an in-house legal or business role and ultimately returning to private legal practice.

How is it different working with entrepreneurs in contrast to large corporate clients?

Karen: One of the primary differences is that an emerging companies lawyer is usually working directly with the C-suite officers of the corporation, including the CEO and CFO, instead of the in-house legal team. This is because, unlike large corporations, many emerging companies do not have in-house lawyers.

Kevin: High-growth startups, unlike most large established companies, have very limited financial resources, a relatively large appetite for risk, and a necessity to move fast. These unique attributes require emerging companies and venture capital lawyers to be super practical and efficient. In my experience, startup clients in particular appreciate opportunities to save costs where they can, and I consider it a crucial part of my job to identify opportunities to do so.

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Karen Deschaine, Partner