

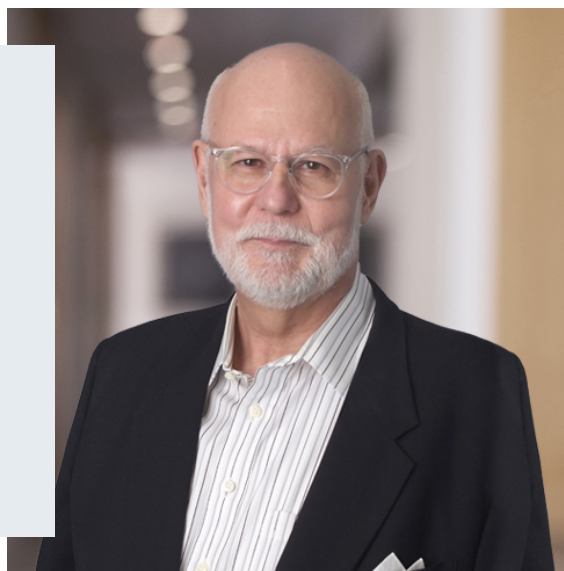
## Patrick D. Daugherty

### Partner

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Patrick Daugherty directs a corporate, M&A, finance, financial regulatory, and fintech practice devoted to capital formation, innovation, and return of and on investment. He leads teams of lawyers that provide the particular array of services needed by each client day-to-day and has helped clients monetize billions of dollars in sweat equity. He also leads the firm's blockchain task force. As a confidential adviser, Patrick helps clients resolve sensitive legal matters out of court, quickly and quietly.

### **Corporate, M&A, and Finance Practice**

Patrick manages relationships with clients in diverse industries such as health care, financial services, fintech and manufacturing, creating and managing teams of lawyers to service each client.

In particular, Patrick directs multi-disciplinary teams of lawyers in planning and executing tender offers, exchange offers, restructurings, recapitalizations, mergers, stock purchases, asset purchases, divestitures, LBOs, MBOs, and "going private" transactions. He also plans and executes public and private offerings of equity, debt, and hybrid securities occupying every rung of a company's capital structure, throughout its entire life cycle: from "angel" or "seed" investment and "Series A" preferred stock to the IPO, PIPE, and secondary offerings, as well as mezzanine, convertible, exchangeable, and high-yield and high-grade debt issues. With help from others, Patrick organizes hedge funds, commodity trading funds, and private equity funds.

Patrick participates in both private and public change-of-control transactions, advising bidders, activist investors, targets, independent directors, financiers, and financial advisors. An early example was the unsolicited bid by Kuhlman Corporation for Communication Cable, where he guided Kuhlman in the first successful attempt by any bidder to acquire a target company while complying with North Carolina's anti-takeover laws. He represents both buyers and sellers in private equity transactions and has been chosen to provide outside general counsel services to portfolio companies of several private equity firms.

Patrick conducted the research that justified the SEC's adoption of Rule 144A and has helped foreign and domestic companies raise money in that particular market. He also worked on the SEC team that created Regulation S and has used his knowledge of the relevant rules, practices and market participants to help companies tap off-shore capital markets.

*Illustrative Transactions.* Patrick plans and executes IPOs for emerging growth companies. He organizes and leads M&A programs for serial acquirers. His deal-making includes, by way of example:

- Taking Charlotte Motor Speedway and Atlanta Motor Speedway public on the New York Stock Exchange in a "world first" for the motorsports industry.
- Managing a series of divestitures by Tyco International after a change of management in what was then the largest divestiture program in the U.S..
- Helping Cablevision secure SEC approval of a \$10 billion going private transaction in less than 45 days, a project picked as "Deal of the Year" by *The Deal* magazine.
- Advising and representing TD Ameritrade in the bail-out of Knight Capital by major investment banks and brokerage firms when a technology glitch caused a \$400 million trading loss for Knight in the space of a few minutes.
- Representing the selling shareholders in the highly successful IPO of multinational exchange operator Bats Global Markets, the leading market for ETF trading.

Recently, he has represented underwriters led by Baird in successful initial and secondary public offerings by women's handbag maker Vera Bradley and has advised commodity pool operators and commodity trading advisors on the launch of off-shore and on-shore commodity trading funds. He executed asset sales for the bankruptcy trustee of Peregrine Financial Group (PFG Best) and helped Nexteer Automotive raise senior debt in the United States and go public in Hong Kong. Nexteer is the largest Chinese-owned automotive supplier in the world outside of China. Patrick routinely advises foreign private issuers seeking to facilitate the trading of their securities in U.S. markets.

*"363" Sales.* One example of Patrick's deal-making success in the restructuring field is the sale of Noble European Holdings to ArcelorMittal. Noble International was a Nasdaq-traded automobile industry supplier whose business had been damaged by a drastic downturn in demand for cars and trucks assembled by the "Detroit 3" car companies (GM, Ford, and Chrysler). Attempts to refinance Noble's maturing debt obligations failed as the global credit crisis persisted, and the company was forced to file into Chapter 11 in Detroit. Thousands of jobs were put at risk by this bankruptcy. Noble had purchased the European laser-welding operations of ArcelorMittal, the world's largest steel company, a year earlier. In bankruptcy, Noble obtained DIP financing from the Detroit 3, then Patrick negotiated the resale to ArcelorMittal of the European operations acquired a year earlier, together with similar businesses in Mexico and Asia. This timely resale saved the jobs of all directly-affected employees. Likewise, the restructuring team managed by Patrick effected several other "363" sales for Noble, each of which prevented a business shut-down and thus saved jobs while raising cash proceeds with which to repay the car companies.

## Advisory and Regulatory Practice

Patrick is called upon routinely to counsel boards of directors, board committees, senior officers, and trustees with respect to challenging questions of business judgment (and the consequences of that judgment). He regularly coaches principals and fiduciaries in the course of decision-making calculated to comply with securities laws, the Sarbanes-Oxley Act, stock exchange rules, corporate codes, and optimal practices.

*Independent Counsel.* Patrick has been engaged to advise directors of companies with which he and his firm have no other professional relationship. He helps independent directors grapple with the thorny questions, such as whether, when, and how to replace senior managers and report financial crimes to the government. His experience is not limited to a single industry but, on the contrary, includes industries as diverse as banking, biotechnology, consumer products, energy, food processing, forest products, health care, media and entertainment, motorsports, real estate, restaurants, retail, robotics, security, steel, utilities, telecommunications, textiles, utilities, vehicle assembly, and original equipment manufacturing. Patrick devotes much of his practice to the legal and business needs of banks, insurance companies, futures commission merchants, securities broker-dealers, and other financial services firms, as well as financial technology innovators.

*An SEC Lawyer.* Early in his career, Patrick was counsel to SEC Commissioner Fleischman in Washington, reviewing and influencing the work of every SEC Division and Office. Patrick relied on that experience to build a law practice in which he advises clients in dealings with every Division of the SEC.

Examples of projects led by Patrick involving different divisions of the SEC include:

- Subject to critical review by the Division of Corporation Finance — planning, documenting and closing numerous IPOs and takeovers;
- upon application to the Division of Trading and Markets — organizing NCNB Capital Markets, which became Banc of America Securities and is now one of the largest investment banks in the world.
- in cooperation with the Division of Enforcement — recovering money for defrauded investors in the Lancer Partners hedge fund, the largest “penny stock” swindle in U.S. history.
- upon application to the Division of Investment Management — inventing, with his colleagues, the CurrencyShares Euro Trust. Judged “the trade of the year” by *SmartMoney* magazine in 2006, this was the first currency-based ETF listed on a stock exchange anywhere in the world.

Patrick also has been engaged by the SEC in private practice to help the SEC solve problems arising in the field. In 2014, the SEC intervened in the affairs of a stock transfer agent whose senior management had mishandled customer funds. On behalf of the SEC-appointed receiver, Patrick recruited an industry leader to stabilize the business, identified the logical bidders for the business and managed an auction resulting in the sale of the business as a going concern — all within two weeks. All rank and file employees kept their jobs, and the terms of sale that he negotiated for the client’s benefit resulted in payment in full.

*Continuous ETF Innovation.* Patrick and the Foley ETF team capitalized on the success of the Currency Shares Euro Trust by launching eleven other currency-based ETFs, representing equity investments in currencies such as the Australian dollar, the British pound sterling, the Canadian dollar, the Japanese yen, the Swiss franc and the Chinese renminbi. All are managed by Invesco.

ETFs have been the most rapidly-growing form of investment in the world, increasing from zero to more than US\$3 trillion under management in twenty years. This trend is continuing as investors are entrusting more dollars to ETFs than they are to mutual funds. In general, ETFs use passive investment strategies. The major advance from that has been the actively-managed fund, in which managers employ subjective investment judgment to decide what to buy and sell.

Five major financial firms raced to produce the first actively-managed ETF. Patrick and his Foley colleagues won that contest for their client, launching the Current Yield Fund on the New York Stock Exchange ahead of all competitors. The Foley team continues to provide thought leadership for its clients relative to new ETF concepts, some of which are patented.

*An Expert Witness.* In recognition of the breadth of his regulatory experience, Patrick also has been called as an expert witness in litigation. He has been tendered and qualified as an expert in securities law in criminal fraud proceedings brought by the U.S. Department of Justice, resulting in conviction, and has been tendered and testified as an expert witness for the defendants in civil fraud matters.

## **Awards and Recognition\***

- *The Best Lawyers in America*®
  - Corporate Governance Law (2012-2024)
  - Corporate Law (2010-2024)
  - Securities/Capital Markets Law (2007, 2012-2024)
  - Securities Regulation (2011-2024)
  - Corporate Law “Lawyer of the Year” in Chicago (2022)
  - Corporate Governance and Compliance Law (2010-2011)
  - Securities Law (2010-2011)
- *The Legal 500*
  - Recognized his mergers & acquisitions work (2010)
- *Super Lawyers*®
  - Selected for the first and all subsequent editions for his achievements in securities and corporate finance
- Martindale-Hubbell® Peer Review Ratings™
  - Peer Review Rated as AV Preeminent®, the highest performance rating in the system, and has been so rated since his first evaluation more than 20 years ago
  - Awarded the Judicial AV Preeminent® Rating, which is the highest possible distinction by both his peers and the Judiciary (2019)

- *The American Lawyer*
  - Named to the “Midwest Trailblazers” list by (2022)
- *Michigan Lawyers Weekly*
  - Selected as “Michigan Lawyer of the Year” (2007)
  - The only corporate lawyer so honored, he was labeled a “financial wiz” and a “mastermind”
- Named to *DBusiness* magazine’s list of “Top Lawyers” in the areas of corporate governance and compliance law and securities law
- Named a *Best Lawyers’* Detroit Corporate Governance Law “Lawyer of the Year” even while living and working in Chicago
- According to *Chambers USA*, Patrick is “top of the class for capital raising”

\* The Illinois Supreme Court does not recognize certifications of specialties in the practice of law and no certificate, award or recognition is a requirement to practice law in Illinois.

## Thought Leadership

Patrick trained as a corporate and securities lawyer in Wall Street after clerking one year for Lloyd F. MacMahon and Edward Weinfeld, each a (late) Chief Judge of the U.S. District Court for the Southern District of New York (New York City). Patrick is a director-at-large of the Northwestern Alumni Association and is on the committee charged with leading Northwestern’s \$3.75 billion capital campaign.

Patrick was invited to join the American Law Institute at age 37 and participates in continuing education programs of the ABA Sections of Administrative Law and Business Law (Committees on Federal Regulation of Securities, Legal Opinions, Mergers and Acquisitions, Professional Responsibility and Small Business). He is on the Planning Committee of the Ray Garrett Jr. Corporate and Securities Law Institute at Northwestern Pritzker law school.

In the course of building client service teams at Foley, Patrick won the firm’s Carl H. Hitchner “Mentor of the Year” award in its inaugural year upon the recommendation of associates in six different offices.

Patrick also has led pro-business initiatives of state and local bar associations. As a member of the Association of the Bar of the City of New York, he authored a white paper that supported New York’s enactment of path-breaking governing-law-selection and forum-selection legislation, enabling business executives and financiers to contract cross-border with full confidence that their choices of New York law and New York courtrooms would be respected should a dispute arise. Later, in North Carolina, he served on Governor Jim Hunt’s Entrepreneurial Development Board, boosting investment and job growth throughout the Tar Heel State.

A recognized thought leader on the SEC, the capital markets, M&A, corporate governance, financial innovation and regulatory reform, Patrick has taught classes and made presentations at Cornell, Duke, Howard, Michigan State, Northwestern, Seton Hall, Wake Forest University, and Wayne State law schools. He has published scholarly articles (e.g., “Rethinking the Ban on General Solicitation” in the *Emory Law*

*Journal*), co-authored one book (*Securities Arbitration: Practice and Forms*, published by Matthew Bender) and edited another (*Decennial Review of Developments in Business Financing*, published by the ABA).

Patrick co-authored "Introduction to the Securities Act of 1933 and to the Securities and Exchange Commission" in the *Federal Securities Act of 1933* treatise published by Matthew Bender. He lectures frequently to legal, accounting, business, and financial groups, has been interviewed about legal developments on radio, TV, and cable news programs, and has been quoted for his insight on legal topics in publications such as *The Wall Street Journal*, *The New York Times*, and the *Chicago Tribune*.

## Sectors

- Digital Assets, Web3 & NFTs
- Family Offices
- Hospitality & Leisure
- Innovative Technology
- Non-Fungible Tokens (NFTs)

## Practice Areas

- Capital Markets & Public Company Advisory
- Corporate
- Financial Institutions
- Mergers & Acquisitions
- Mergers, Acquisitions & Complex Reinsurance Transactions
- Regulatory Compliance
- Transactions

## Education

- Cornell University (J.D., cum laude)
- Northwestern University (with distinction)

## Admissions

- New York
- Washington, D.C.
- North Carolina
- Michigan
- Illinois
- U.S. District Court for the Southern District of New York (New York City)
- U.S. District Courts for the Eastern and Western Districts of Michigan