

JUNE 12-13, 2017

NON-COMPETES UNDER ATTACK

*TRENDS IN RESTRICTIVE
COVENANT ENFORCEMENT AND
RELATED DRAFTING
CONSIDERATIONS*

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AGENDA

- I. “Jimmy John’s Rebellion” and Resulting Barriers to Non-Compete Enforcement
 - A. Recent Legislative Efforts in the States
 - B. California’s Statutory Limitation on Choice-of-Law and Forum Selection Provisions
- II. Recent DOJ and FTC Antitrust Guidance
- III. Will Texas Follow the National Trend?
- IV. Drafting and Enforcement Considerations in an Age of Increased Scrutiny

INCREASED SCRUTINY OF RESTRICTIVE COVENANTS: WHITE HOUSE HOSTILITY TO NON-COMPETES



"THE JIMMY JOHN'S REBELLION"



INCREASED STATE HOSTILITY TO NON-COMPETES



New Insight on Alabama's Restrictive Covenants Statute

What Employers Should Know About New Ill. Noncompete Law

The New York Times

How Noncompete Clauses Keep Workers Locked In

Deseret News Utah

Utah lawmakers pass controversial bill on noncompete contracts

Forbes

California Got It Right: Ban The Non-Compete Agreements



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RESULTING BARRIERS TO NON-COMPETE ENFORCEMENT

- New York and Illinois investigations and settlements
- Recent state efforts
 - Statutory limitations on non-compete length
 - Wage thresholds
 - Consideration in addition to continued employment
 - Advance notice requirements
 - Occupation-specific limitations
- California's statutory limitation of choice-of-law and forum selection provisions



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