

JUNE 12-13, 2017

## NON-COMPETES UNDER ATTACK

*TRENDS IN RESTRICTIVE  
COVENANT ENFORCEMENT AND  
RELATED DRAFTING  
CONSIDERATIONS*

**Presented by Sean Becker**

1001 Fannin Street  
Suite 2500  
Houston, TX 77002  
+1.713.758.2646  
sbecker@velaw.com

velaw.com



### 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**



Confidential and Proprietary ©2017 Vinson & Elkins LLP velaw.com 5

## 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



Confidential and Proprietary ©2017 Vinson & Elkins LLP velaw.com 6

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](http://utcle.org/elibrary)

## Title search: Non-Competes Under Attack

Also available as part of the eCourse

[2017 Labor and Employment Law eConference](#)

First appeared as part of the conference materials for the 24<sup>th</sup> Annual Labor and Employment Law Conference session "Non-Competes Under Attack"