

# Debbie Berman and Stephen Ascher Discuss Implications of New York’s Proposed Ban on Noncompetes

## News

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Partners Debbie Berman and Stephen Ascher are quoted extensively in an article that examines the future of non-competes under New York law.

In New York, legislators are looking to ban such agreements, a move that, critics say, could threaten the ability of trade secret owners to protect their intellectual property. After Governor Kathy Hochul vetoed a bill last December, sponsors this year will reintroduce a revised version that addresses sticking points, among them: a salary cap that would exclude high-earning staff from the ban.

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The article by *IAM* explains that “while the sponsors of the bill seemed ready to accept a \$300,000 threshold, Hochul favored a lower cap at \$250,000, according to media reports.”

Debbie, a Co-Chair of the firm’s Trade Secrets and Restrictive Covenants Practice, tells *IAM* that introducing a salary cap would remove concerns that an outright ban would harm trade secret holders. On the issue of whether the Federal Trade Commission will ban noncompetes nationwide, Debbie predicts that the agency instead will provide “carve-outs” for high-paid employees. “If the FTC’s final rules are more stringent, I expect that the business community will file lawsuits to challenge their legality,” she says.

Stephen, a New York-based member of the Trade Secrets and Restrictive Covenants Practice, agrees that a ban could spur litigation. “It will make it more important for employers to protect their trade secrets aggressively through trade secret litigation – and threats of trade secret litigation,” he observes.

## Related Attorneys



**Debbie Berman**

Partner

[dberman@jenner.com](mailto:dberman@jenner.com)

+1 312 923 2764



**Stephen Ascher**

Partner

[sascher@jenner.com](mailto:sascher@jenner.com)

+1 212 891 1670

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