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BURNED ONCE BUT NOT AGAIN

Insurance carriers hike premiums, nix renewals after wildfires



Approaching
Flames: Last year's
Hill Fire descends
on Camarillo.

By **ANDREW FOERCH** Staff Reporter

Even as memories of the Woolsey Fire and Hill Fire fade, their influence lingers as business and property owners in Ventura County and the Valley region confront escalating fire insurance premiums or policies they can't renew.

Catastrophic losses have pushed carriers to the brink of bankruptcy, according to **Tim Gaspar**, chief executive of brokerage **Gaspar Insurance Services** in Woodland Hills. In response, they have ratcheted up premiums as much as to 200 to 300 percent. Ripple effects have scuttled real estate transactions and pushed up rates for non-fire-related insurance.

The crisis has motivated Gaspar and other brokers to advise clients to accept policies at almost any cost.

"Even if the price doubles, it's probably best that they take it," Gaspar told the Business Journal. "There are just so few options."

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PHOTO BY MIKE BAKER

Rent Control Cools Market

REAL ESTATE: Apartment owners look elsewhere for investments.

By **MICHAEL AUSHENKER** Staff Reporter

California's rent control bill cleared the State Assembly on Sept. 11 with a 46-22 vote, setting up Gov. **Gavin Newsom** to sign it into law.

The law — which will go into effect on Jan. 1 — has owners and brokers of multifamily buildings complaining and economists opining on what lasting good or damage may result from it.

Please see *REAL ESTATE* page 36

Builders Go Big With Projects

LIST: Valley industries sense now's the time to scale up.

By **MICHAEL AUSHENKER** Staff Reporter

With a price tag of \$542 million, **Providence Tarzana Medical Center's** Reimagined Project ranks No. 1 on the Business Journal's list of Construction Projects according to cost.

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Tariffs Tweak Cost Models

MANUFACTURING: Trade policy 'not helping us' says CEO.

By **MARK R. MADLER** Staff Reporter

At Valley manufacturers such as **Richard Brent's Louroe Electronics** in Van Nuys, tariffs from the Trump Administration have raised prices minimally — but those increased have been passed on to customers. In addition, confusion about the tariffs' future has complicated business planning.

Please see *MANUFACTURING* page 7

End of Indie Contractors Means Employer Woes

LAW: New rule impacts sectors from music to ridesharing.

By **AMY STULICK** Staff Reporter

The proverbial hammer waiting to drop on the gig industry finally fell when Gov. **Gavin Newsom** signed Assembly Bill 5 on Sept. 18, codifying the contentious Dynamex court case.

The new law, which goes into effect Jan.

1, changes how the state views independent contractors and effectively grants workers employee status through a qualifying test. The rule will make it difficult for employers to have independent contractors, or 1099 employees, unless the job falls under an exempted profession within the bill.

Even then, exempted professionals would need to satisfy the old test, referred to as Borello, to be legally classified as an independent contractor.

The new ABC test has three prongs. The

first, prong A, questions who has the "right to control" and requires the independent contractor to prove that he or she cannot be told by the hiring entity what to do, when to do it or how to do it. Prong A was part of the previous Borello test.

Prong C is borrowed from Borello, too: the independent contractor must be set up as a real business with an office, business cards, workers they employ and their own equip-

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Law: Employee-Contractor Classification a Priority

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ment related to the job.

Prong B is the major shift that will impact many employers and workers in the gig economy. This rule states that the work a contractor performs must fall outside the usual course of the hiring entity's business.

The legislature's example of Prong B follows a bakery and its hired cake decorator, an independent contractor. Under B of the ABC test, the decorator must be classified as an employee, not an independent contractor, because the service rendered contributes to the company's finished product — a cake sold at the bakery.

The same goes for a film editor hired by an advertising agency to work on a commercial, or a web designer brought in to update a company's website.

Gig industry behemoths **Uber**, **Lyft** and **DoorDash** have already raised roughly \$90 million to campaign for a November 2020 ballot measure to include their businesses on the exemption list.

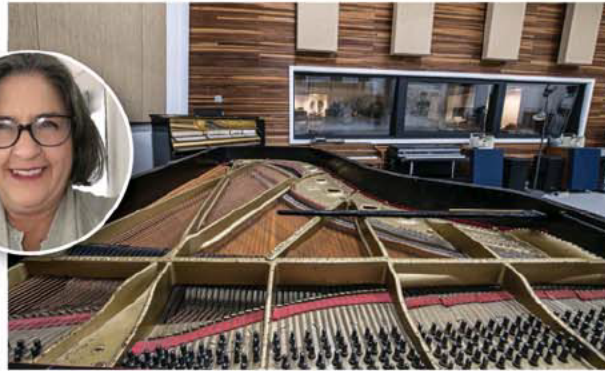
Newsom made it clear in his signing message that he hopes more workers classified as employees means access to benefits and protection through unions and the labor code. "Assembly Bill 5 is an important step. A next step is creating pathways for more workers to form a union, collectively bargain to earn more and have a stronger voice at work — all while preserving flexibility and innovation," he said.

"This is a policy question," said Encino employment lawyer **Richard Rosenberg**, partner at **Ballard Rosenberg Golper and Savitt**, in response to AB5 and Newsom's stance on the matter. "When given the choice of having people be independent versus employees, for policy reasons, in the State of California at least, they have chosen employment. From employment flows a whole set of rights, a whole set of benefits that are not available to humans who are classified as independent contractors."

Employer reaction

For **Sandy Skeeter**, however, president of **Sound City Inc.** in Van Nuys, the bill offers the music recording industry very little flexibility and will stunt innovation because artists will need to make their drummer, manager, production team and engineer employees in the future.

"If you're a songwriter and you have other songwriters coming over or a drummer for the day, they shouldn't be your employees," said Skeeter. "Let's say you're an artist and you book the studio. You get the engineer, so that's my problem, that's not your employee. But if



Silent Concerns: Sound City's Sandy Skeeter, left, asks if musicians need employees.

you have another songwriter come in, studio musicians, a producer — all of a sudden they are your employees and you're supposed to be paying them a certain way. You're probably going to have to have some sort of insurance. If you're an independent artist, there's no way you have the infrastructure in your business to treat people like employees."

The recording industry was not able to organize in time to get its exemption alongside other arts professions in the bill, Skeeter said.

Other industries such as staffing companies in the San Fernando Valley have been slowly transitioning away from dealing with 1099 employees, based on what clients require.

Carrie Nebens, president of **Equis Staffing** in Calabasas, hasn't staffed independent contractors for several years.

"Our large company clients, over time, stopped allowing us to place employees who are working as 1099s," said Nebens, mentioning names such as **Walt Disney Co.** and **Fox**. "The employees are — whether they're called consultants, contract, temporary — they are all W2 employees on our payroll, as opposed to an independent contractor, where I would say several years ago, an employee could have said to us, 'I want to work as a 1099.'"

Staffing businesses that cater to smaller companies as clients may be more inclined to take the risk of an independent contractor, Nebens said, but it ultimately comes down to what the client is looking for. The line of work and seniority in the field matters, too, as does what the worker wants to be classified as.

"There are many employees, and I would say particularly consultants, IT employees, who do make good salaries, \$90 to \$100 per hour, who really want to be 1099," added Nebens. "They do not want to be W2 employ-

ees. ... They'll say, 'If you can't pay me 1099, I don't want to work for your agency.'"

According to **Elizabeth Hawley** and **Stuart Waldman**, legislative affairs director and president, respectively, for the **Valley Industry & Commerce Association** in Van Nuys, the law ignores roughly 70 percent of gig economy workers who like being contractors and want things to continue that way.

"If I am a stay-at-home mom and I want to do some work fundraising or something for a (political) campaign, I can work from home and hit the phones," Hawley explained. "If you're an independent contractor, you can work from 6 a.m. to 9 a.m. and then focus on the kids, and then work from 6 p.m. to 9 p.m. and it's totally my call because I'm an independent contractor."

Campaign workers, who will likely fail AB5's ABC test and are not considered exempted professionals, will not be able to work the split shift Hawley described without a penalty.

"It not only hurts the campaign, but it also hurts that person. I personally know somebody who worked as a fundraiser for a campaign because she had two small kids and that worked out really well for her," added Hawley. "She won't be able to do that."

Worker fallout

She Bendavid, employment attorney and partner at Encino's **Lewitt Hackman**, expects more companies will move out of state to avoid

the law, particularly in highly affected industries.

"A lot of manufacturing is going abroad. For those industries, and that's any sort of manufactured products, beauty products, machine parts, they have already started to move elsewhere," she said.

For example, one client in the garment business moved its plants out of the country altogether, opting for Asian countries and Mexico.

"The only workforce in California were the ones doing the logistics. You reduce your workforce down from several hundred to 35," added Bendavid. Although this specific example was due to overtime laws, Bendavid expects an increased amount of the same with more restrictions on employers in California.

The state will likely see a change in business models and price adjustments, too, as a reaction to AB-5, Waldman at VICA told the Business Journal.

"In the past, you had a driver who could easily within a given hour have driven for Uber, Lyft, Amazon, DoorDash and GrubHub. So now they're going to be an employee of one of those companies and stuck. How does that impact the consumer? The cheap \$8 ride you used to get, what will that end up being, and will you as a consumer pay for that?"

He also predicted that "the cost of having a package delivered will go up, the cost of groceries will go up."

Risk management

Bendavid's advice to employers is to review classifications for workers, and if there's any sort of clarification needed, see an employment lawyer rather than get hit with a claim or lawsuit.

"People are going to have to take a good hard look at the classifications of their workers. Anyone who is an independent contractor will have to take a look if they need to make that transition (to employee) if that person is really misclassified, to minimize potential liability," she explained.

"For decades I've been telling employers there's no risk in calling people employees, but you have your chin out when you call them contractors," added Rosenberg. "The challenge for business owners now is that Dynamex has been the law since May 1, 2018. It's already been 15 to 16 months. We haven't seen yet the cascade of lawsuits, but we've started to see some."

The language of AB5 also leaves no room for interpretation by an appellate court, according to Bendavid. The intent of the legislature is clear — to protect misclassified workers.

"The legislature creates the law and then the courts interpret it based on what they think the legislature meant," explained Bendavid. "Now they're putting what their intent is right in the statute."



Nebens