VOLUME 45, NUMBER 34 • DECEMBER 20, 2019

CalChamber

ALERT

Blue Diamond CEO to Chair CalChamber Board in 2020

Mark Jansen

Mark Jansen, president and CEO of Blue Diamond Growers, has been elected the 2020 chair of the California Chamber of Commerce Board of Directors.

"As we begin the next decade, and the next chapter of California's story, I'm proud to support the CalChamber's integral role in leading California's diverse business community and supporting our strong workforce," Jansen said.

Serving with Jansen as 2020 officers of the CalChamber Board are:

• **First Vice Chair Donna L. Lucas**, chief executive officer and president, Lucas Public Affairs.

• **Second Vice Chair Kailesh Karavadra**, West Growth Markets leader, Ernst & Young LLP; and

• **Third Vice Chair Gregory S. Bielli**, president and chief executive officer, Tejon Ranch Company.

Mark Jansen

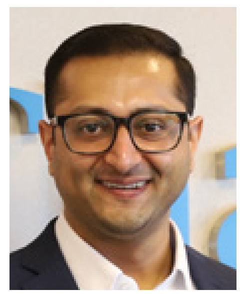
Jansen has been president and CEO of Blue Diamond Growers since October 2010 where his leadership focus on innovation, quality and strategic growth has helped transform Blue Diamond into an industry-leading global branded food manufacturer.

Jansen's previous career achievements include leading the brand growth for Häagen-Dazs, Betty Crocker, Totino's, Pillsbury, Red Baron, Freschetta, Wolfgang Puck, Tony's and Minh.

Jansen received his bachelor's degree

See Blue Diamond CEO: Page 4

Privacy/Technology Policy Advocate Joins CalChamber Team



Shoeb Mohammed

Shoeb Mohammed has joined the California Chamber of Commerce as a policy advocate specializing in privacy and cybersecurity, Fair Political Practices Commission, technology, and telecommunications issues.

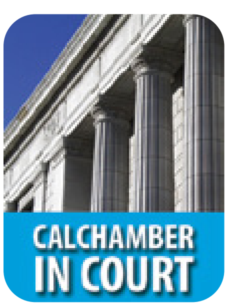
Mohammed is an experienced litigator who advised clients on matters such as trademark, business planning, proprietary software, and technology-related business cases.

He came to the CalChamber policy team after practicing law at Knox Lemmon & Anapolsky, LLP, where he provided product and general counsel for various industries, including heavy manufacturing, internationally distributed snacks, fintech prepaid card services, and technology.

Before joining Knox Lemmon, Mohammed handled technology-related business counsel and litigation as a senior partner at Black Tie Law Corporation.

Mohammed earned a B.A. in political science at California State Polytechnic University, Pomona; a J.D. from University of the Pacific McGeorge School of Law; and a Certificate in Disruptive Strategy from Harvard Business School Online.

CalChamber-Led Coalition Challenges Anti-Arbitration Law in U.S. District Court



A coalition of businesses led by the California Chamber of Commerce filed a lawsuit on December 6 to stop a new California law that precludes employers from enforcing arbitration agreements made as a condition of employment—and making it a crime for businesses to do so, even if workers may opt out of arbitration. The incoming law, the complaint states, is preempted by the Federal Arbitration Act (FAA) and should be declared invalid.

"It doesn't make sense to place businesses at risk for criminal penalties for a practice that has been favored by California and federal law, and consistently upheld by the courts," said CalChamber President and CEO Allan Zaremberg. "While it may not serve the best interests of the trial lawyers, expeditious resolution through the arbitration process serves the interests of employees and employers."

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Inside

Labor Law Corner

Factors for Employers to Consider When Making Holiday (Pay) Plans

Matthew J. Roberts
Employment Law Counsel/Subject Matter Expert

If we close our worksite for a holiday, do we have to pay our employees for the day?

The answer depends on the employer's policies and whether the employee is exempt or nonexempt.

Paid Holidays

California law does not require an employer to provide paid holidays, close its worksites on holidays or grant time off to employees for holidays, with the limited exception of religious accommodations. Simply put, an employer controls how to account for holidays.

If an employer chooses to offer paid holidays or is considering expanding or reducing the number of paid holidays it already offers, the employer should commit this policy to writing in the employee handbook.

The policy should include:

• the list of the specific days observed as paid holidays;

• any employee eligibility requirements for the holiday, such as if the employees must work the day before and/or after the holiday, or whether they receive holiday pay while on an unpaid leave of absence;

• a statement that employees who are not employed at the time of the holiday do not receive pay; and

• a statement that holidays do not accrue and are not paid out upon termination of employment.

An employer that offers paid holidays also should provide guidance in its policy on how nonexempt employees will receive holiday pay if they perform work on a paid holiday. Courts have interpreted the policy of giving a paid day off as a contract to do so. Therefore, employers must make up the lost benefit to the employee in some manner.

If an employer enforces a policy requiring employees to work the day before and/or after the holiday to receive holiday pay, the employer must make sure it does not deny holiday pay in situations in which the employee was absent for a reason protected by law, such as under California's paid sick leave law.

Holiday Closures

Although employers are not required to offer paid holidays, closing the workplace during a holiday still may result in paying employees for that day the worksite is closed, even if the employer does not offer paid holidays.

Employers are obligated to pay nonexempt employees only for the actual hours the nonexempt employee works. If an employer does not offer paid holidays and closes the worksite for the holiday, and the nonexempt employee performs no work that day, the employer does not have to pay the nonexempt employee.

Under these same circumstances, however, employers must pay an exempt employee for the full week when they close for a holiday if the exempt employee has performed any work during that work week.

Employers should consult legal counsel if they have any questions about designing and implementing an effective holiday policy or paying employees during worksite closures for holidays.

Column based on questions asked by callers on the Labor Law Helpline, a service to California Chamber of Commerce preferred and executive members. For expert explanations of labor laws and Cal/OSHA regulations, not legal counsel for specific situations, call (800) 348-2262 or submit your question at www.hrcalifornia.com.

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Email: alert@calchamber.com.
Home page: www.calchamber.com.

CalChamber-Sponsored Seminars/Trade Shows

More at www.calchamber.com/events.

Labor Law

2020 Employment Law Updates. CalChamber. January 7, 2020, San Diego; January 8, 2020, Costa Mesa; January 9, 2020, Glendale; January 10, 2020, Sacramento; January 15, 2020, San Jose; January 16, 2020, Oakland; January 23, 2020, Los Angeles; January 24, 2020, Sacramento; January 28, 2020, San Francisco; January 30, 2020, Webinar. (800) 331-8877.

Leaves of Absence: Making Sense of It All. CalChamber. February 21, 2020, Sacramento; April 24, 2020, Costa Mesa; June 26, 2020, San Diego; August 13, 2020; Oakland. (800) 331-8877.

HR Boot Camp. CalChamber. March 5, 2020, Modesto; March 27, 2020, San Diego; April 23, 2020, Costa Mesa; May 6, 2020, Sacramento; June 12, 2020, Walnut Creek; August 21, 2020,

See CalChamber-Sponsored: Page3

Next Alert:
January 10, 2020

The Workplace

How Festive Is Too Festive? Tone from Top Is Key to Avoiding Trouble

It's the most wonderful time of the year, and many companies are deciding to join in the festivities by hosting a holiday party. Although wine or an open bar might seem like a good way to celebrate, employers should be aware that they are on the hook for any mishaps.

In Episode 42 of The Workplace podcast, employment law expert Jennifer Shaw joins CalChamber Executive Vice President and General Counsel Erika Frank to discuss what employers can do to avoid the problems that arise when employees drink too much at a company party.

With the help of a clip from the movie "Elf," Frank and Shaw kick off the podcast by reviewing the most obvious hazard of providing alcohol at a company party: normal employees can turn into drunk employees with impaired judgement. But that's not to say that alcohol is completely off limits.

"I'm not going to sit on this podcast and say 'You should have a holiday party without any drinking.' Or 'Don't allow anyone to come to the holiday party and have a glass of wine.' That's not what it's about here. What is…critical is finding out where's the line," Shaw says. "…What are people's expectations going to be?"

Oftentimes, people simply forget that that they're still at work, Shaw tells Frank. This is why, she says, it is important that companies figure out what they're willing to tolerate and determine what is acceptable behavior. Employers should clearly communicate to their employees that the party is a company party, with standard company rules.

Someone Needs to Be the Parent

Employers should know that because a company holiday party is a company-sponsored event, employers may be held liable for any injury or harm that may arise out of excessive drinking, Shaw cautions.

Some companies have sought to limit how much employees drink by handing out vouchers that grant only one or two drinks per employee. This is still problematic, however, because workers can give other employees their unused vouchers, and the company can still end up with drunk employees, Shaw says.

And if employees become too unruly, Shaw reminds employers that they can do *something*, such as asking an employee to leave and calling the employee a cab/ride.

"Somebody needs to be the parent," Frank says.

Gifts, Other Substances

At parties where gifts are exchanged, some employers may find it easy to gift employees a bottle of wine. Problems may arise if employees then open the bottle of wine and consume it at the party. Also problematic is the availability of CBD (cannabidiol) and marijuana-infused food products. Since marijuana is legal in California, some people may decide to give gifts containing marijuana at company parties.

While employers cannot predict every scenario or outcome, Shaw says, setting clear expectations early on can discourage unwanted behavior. For example, if an employer is giving out bottles of wine, the employer should emphasize that the wine is to be consumed at home.

"You want to bring a bottle of wine? Great, but you're not going to be falling down drunk at the party, and when you are there's a consequence," Shaw says.

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CalChamber-Sponsored Seminars/Trade Shows

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Pasadena; September 10, 2020, Sacramento. (800) 331-8877.

International Trade

Incoterms 2020 Seminar. International Chamber of Commerce. January 9, 2020. Brookville, NY. (888) 484-6484.

Select Bay Area Investor Immersion Program. U.S. Commercial Service. January 13–14, 2020, San Francisco and San Jose. (415) 744-7728.

Exporting Mechanics Webinar Series II: Commodity Jurisdiction. National Customs Brokers & Forwarders Association of America, Inc. and U.S. Department of Commerce. January 14, 2020, Webinar. (202) 466-0222.

State of the Port of Los Angeles. Pacific Merchant Shipping Association. January 16, 2020, San Pedro. (310) 732-3508.

Trade Mission to India. Rauch Export-Import, India Electrical & Electronics Manufacturers Association and U.S. Department of Commerce Commercial Service. January 16–24, 2020. Greater Noida, India. (702) 818-1765.

Exporting Mechanics Webinar Series II: Drop Shipments and Routed Transactions. National Customs Brokers & Forwarders Association of America, Inc. and U.S. Department of Commerce. February 18, 2020, Webinar. (202) 466-0222.

Exporting Mechanics Webinar Series II: Cultural Sensitivity Program. National Customs Brokers & Forwarders Association of America, Inc. and U.S. Department of Commerce. March 10, 2020, Webinar. (202) 466-0222.

2nd Medical Device Research & Development Summit. March 23–24, 2020. Tel Aviv, Israel. +972-3-5626090, ext. 3.

Exporting Mechanics Webinar Series II: ACE Export Reports for Compliance. National Customs Brokers & Forwarders Association of America, Inc. and U.S. Department of Commerce. April 14, 2020, Webinar. (202) 466-0222.

2020 Annual Export Conference. National Association of District Export Councils. May 19–20, 2020. Alexandria, VA. (407) 255-9824.

CalChamber Calendar

Board of Directors:

February 27–28, 2020, La Jolla.

Blue Diamond CEO to Chair CalChamber Board in 2020

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in economics from St. Olaf College and an MBA in marketing and finance from the Kellogg School of Business at Northwestern University.

Executive Committee

The CalChamber Board also approved three directors as at-large members of the CalChamber Executive Committee.

New to the rotating position for 2020 is:

• **Maryam S. Brown**, president, Southern California Gas Company.

Returning for another year as at-large Executive Committee members are:

• **Janet A. Liang**, president – Northern California, Kaiser Foundation Hospitals and Health Plan, Inc.; and

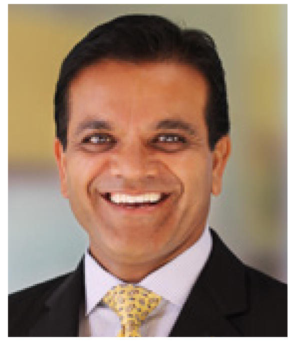
• **John A. Stowell**, senior vice president, The Walt Disney Company.

In addition to the at-large members and current officers, the Executive Committee typically includes the last three chairs of the CalChamber Board. The Executive Committee works with top CalChamber management to determine policy, financial and program direction, including, when necessary, providing policy guidance between the regular quarterly meetings of the CalChamber Board.

Staff Contact: Dave Kilby

2020 Officers of CalChamber Board of Directors


Donna L. Lucas


Kailesh Karavadra


Gregory S. Bielli

2020 At-Large Members of CalChamber Executive Committee


Maryam S. Brown


Janet A. Liang


John A. Stowell

2020 Presidential Election Politics Get Close Look at CalChamber Dinner

Mark Z. Barabak (left), political reporter for the *Los Angeles Times*, and Jon Ralston, editor of *The Nevada Independent*, provide a spirited discussion about the 2020 presidential campaign, including commentary on the Democratic candidates for President, moderated by CalChamber President and CEO Allan Zaremberg at the CalChamber Board of Directors dinner on December 5 in San Francisco.

CalChamber Board Backs School Bond, Opposes Split Roll Ballot Measure

The California Chamber of Commerce Board of Directors recently voted to support a ballot measure that would help finance school facilities, and oppose another measure that would impose a split roll property tax on commercial and industrial properties.

School Facilities Bond: Support

Proposition 13: The Public Preschool, K–12 and College Health and Safety Bond Act – SUPPORT

Scheduled to be on the March 3, 2020 primary election ballot, the Public Preschool, K–12 and College Health and Safety Bond Act of 2020 will appear as Proposition 13—which should not be confused with the landmark Proposition 13 initiative passed in 1978, which cut property taxes.

The Proposition 13 measure appearing on the March ballot proposes a $15 billion general obligation bond, approved by the Legislature and Governor. Proceeds of the bond would be used to support construction and rehabilitation of instructional and support facilities for public schools, colleges and universities.

If approved by voters, this measure would generate $9 billion for K–12 facilities, and $2 billion each for the Community College, California State University (CSU) and University of California (UC) systems.

The K–12 spending would be allocated for new construction ($2.8 billion), modernization/rehabilitation of old facilities ($5.2 billion, including $150 million to remediate lead infiltration in school plumbing), career-technical education facilities ($500 million), and charter schools ($500 million). The measure also provides immediate relief, such as temporary facilities, for schools affected by natural disasters (such as recent wildfires).

For higher education, the measure prioritizes deferred maintenance, seismic and safety issues. It also requires the UC and CSU systems to adopt five-year affordable student housing plans.

The CalChamber historically has supported statewide school construction bonds. The schools bond will help moderate the cost of new housing by preventing new local mitigation fees, as without new state funding, builders who pay fees to mitigate school impacts will see those fees double or triple as school districts demand full mitigation. Depending on the jurisdiction, school impact fees could increase by $15,000 or more per unit over what is currently being paid.

Split Roll: Oppose

Split Roll Property Tax Increase Measure – OPPOSE

Aiming for a spot on the November 2020 general election ballot, a new measure proposes to raise up to $12 billion a year through a split roll property tax on commercial and industrial properties.

The proposed initiative is an effort to correct deep flaws in a previous proposal that has already qualified for the November 2020 ballot. The CalChamber Board voted in 2018 to oppose that original flawed proposal.

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Analyst Presents Update on Education Funding to CalChamber Board

Gabriel Petek, appointed California's Legislative Analyst in February, reviews for the CalChamber Board of Directors on December 6 the factors that go into his office's assessment of the state's economy and fiscal outlook, both of which affect education funding due to the formula placed in the State Constitution by voter-approved Proposition 98 in 1988. Petek was the primary analyst for California and Illinois at S&P Global Ratings before his appointment.

U.S.-Mexico-Canada Pact Passes House

The California Chamber of Commerce welcomed news that the U.S.-Mexico-Canada Agreement (USMCA) passed the U.S. House of Representatives this week.

The agreement passed the House on a vote of 385-41, and will be considered next by the U.S. Senate in January 2020, which is expected to approve it.

"It's about time that the USMCA becomes a reality," said CalChamber President and CEO Allan Zaremberg. "Mexico and Canada are two of California's strongest trading partners and trade with Mexico and Canada supports nearly 14 million U.S. jobs. The USMCA is a necessary modernization to NAFTA that recognizes the impacts of technology on the three countries' economies."

The objectives of the USMCA are to eliminate barriers to trade, promote conditions of fair competition, increase investment opportunities, provide adequate protection of intellectual property rights, establish effective procedures for implementing and applying the agreements and resolving disputes, and to further trilateral, regional and multilateral cooperation.

Benefits for Economy

Due to California's position as a global leader in international trade, the priorities of the USMCA are important to CalChamber members and the overall economic health of the state.

CalChamber support for the USMCA, like its longstanding support for the North American Free Trade Agreement (NAFTA), is based on an assessment that the agreement serves the employment, trading and environmental interests of California, the United States, Mexico and Canada, and is beneficial to the business community and the California and national economies.

Mexico and Canada are California's largest and second largest export markets. Trade with Mexico and Canada supports nearly 14 million U.S. jobs. In addition, Canada and Mexico buy more than one-third of U.S. merchandise exports. CalChamber has advocated adoption of USMCA because it is critical to the economic health of California and the United States.

Since 1993, trade among the three NAFTA countries has nearly quadrupled.

Mexico was the first country to ratify the new USMCA deal in June 2019. However, since updates were made to the USMCA, Mexico re-approved the deal. Mexico's Congress promptly took up the updated agreement, and again passed the USMCA on December 12.

Meanwhile in Canada, the original bill was introduced in Canadian parliament in May; however, Canada has stated that it will move forward with the ratification process in tandem with the United States. The USMCA implementing bill will officially repeal NAFTA, while it will only "suspend" the U.S.-Canada Free Trade Agreement in case the USMCA is terminated as part of a sunset review that begins six years after the agreement takes effect.

USMCA Coalition

Earlier this year. the CalChamber joined more than 200 companies and associations in launching the USMCA Coalition, which advocates congressional approval of the USMCA.

The coalition includes a diverse group of businesses, farmers and ranchers, manufacturers, service providers, and technology companies.

More information about the agreement and the coalition is available at ***www.USMCAcoalition.org***.

Staff Contact: Susanne T. Stirling

CalChamber Board Backs School Bond, Opposes Split Roll Ballot Measure

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If approved by voters, the new measure would require that, beginning with the 2022–23 lien date, all commercial and industrial properties, with some limited exceptions, be reassessed to full market value, and then reassessed every three years.

Exempted from this requirement would be any residential property, including rental housing, property used for production agriculture, and some small business property holdings. The measure also would exempt from taxation tangible personal property up to $500,000 per taxpayer, and all tangible personal property for certain small businesses.

The CalChamber Board opposes the proposal because it would increase property taxes on business by 25% and would be the largest tax increase in California ever.

According to the Legislative Analyst, up to $1 billion a year of the new taxes will be sent to state and local governments for implementation, overhead and existing state programs. This means that up to $1 billion a year will be intercepted before the funds can be used to hire any new school teachers, police officers or firefighters.

Since the passage of Proposition 13 in 1978, California property taxes have been stable and relatively moderate, compared to the rest of the country. Proposition 13's acquisition-value assessment system keeps the property tax stable and is an enormous benefit to California taxpayers. Changing this system would make the property tax a volatile revenue source for local government, triggering larger cuts in government services during recessions—when people need these services most.

The higher taxes imposed by the split roll measure would likely be passed on to consumers, or would force businesses to reduce overhead costs, such as employee hours or positions. According to a 2012 study by the Davenport Institute at Pepperdine University, a split roll could cost the California economy $71.8 billion of lost output and 396,345 lost jobs over the first five years.

Many split-roll activists have the long-term goal of repealing Proposition 13 protections for homeowners as well as businesses. As their first step in destroying Proposition 13, proponents are trying a "divide and conquer" approach. By sticking together, homeowners and business property owners can continue to protect Proposition 13.

The CalChamber is co-chairing the Californians to Stop Higher Property Taxes coalition that is leading the opposition to the split roll ballot measure proposals.

U.S., State Economies Show Steady Growth; Political Rhetoric Disconnected from Reality

The Great Un-Recession

When we look back at 2019 there will be plenty of negative memories—from the theatrics that have dominated national politics to the ongoing trade war with China to the unnecessary crisis of confidence that exists within our borders to grim tidings on the international front as the result of a slowing European economy to deepening political crises in the Middle East.

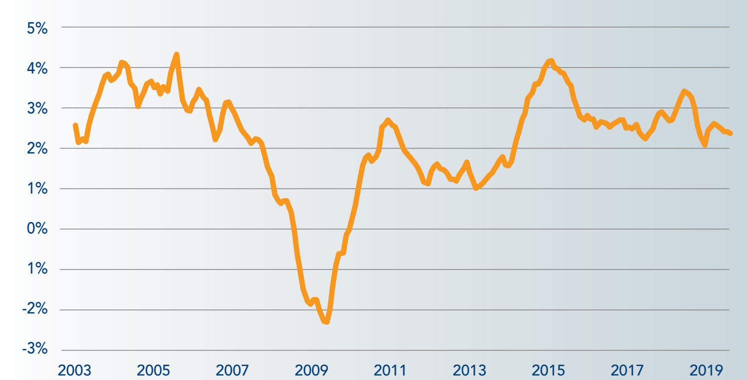
Despite all the turmoil, what will not make the list of "2019 negatives" is the health of the United States economy. Pessimistic press coverage and punditry aside, the sum total of indicators for the year shows that the U.S. economy is continuing to grow at the same steady, uninspiring rate that has now become the hallmark of the longest expansion on record. More importantly, there is little sign of any collapsing imbalances or rapid shifts in aggregate demand that would presage economic issues in the year ahead.

This shouldn't imply that there aren't a number of stressors and strains on the economy—only that they do not add up to the kind of shock that is capable of pushing the U.S. economy into a downturn or even a protracted slow growth slump. Beacon Economics continues to see 2%-plus real growth in 2020, and up toward 2.5% in 2021.

This outlook leaves us on the bullish side relative to many of our forecasting peers. As of November, a plurality of economists who contribute to the *Wall Street Journal's* Economic Forecasting Survey (34%) still believe there will be a recession in 2020. It should be noted, however, that in November 2018 more than 60% of the *Journal's* forecasters predicted there was going to be a recession in 2020. In 2017, they predicted the recession would hit in 2019. In short, such surveys have little predictive value.

The primary risk to the short-term health of the U.S. economy is nothing that is in play at the moment. But in this era of hyper-partisan politics combined with a besieged president who has the capacity to decree large changes in economic policy on a whim, we have to maintain vigilance.

Real Consumer Spending



Source: Federal Reserve Economic Data

Even as this outlook is being written, threats are emerging that new tariffs may be levied on imports from France, Argentina and Brazil. However, the validity of such rhetoric has to be considered seriously as these kinds of hyperbolic statements without actual action have been par for the course under the current White House administration. Then again, this administration has followed up with action enough times to keep us wary.

Looming Issues

But while the nation unnecessarily flirts with short-run disasters, the looming issues of long-run economic health—dealing with the health care cost crisis, the desperate need for pension and entitlement reform, and reversing dangerous trends in wealth inequality, among others—remain largely ignored. This will come back to haunt us eventually—the only question is when, not if.

Beacon Economics' current outlook, as always, begins with the structure of gross domestic product (GDP) growth. What is most notable about the data is just how steady growth has been despite all the frantic headlines.

U.S. GDP growth was 2.8% in 2017, 2.5% in 2018, and has averaged 2.4% for the first three quarters of 2019. Throughout this entire time period, consumer spending has been the primary driver of growth.

Last year, weakness in trade and residential investment was offset by strong business investment. This year, business investment has slowed, but strong growth in public spending, with better results in residential real estate and trade, is functionally making up the difference.

Much of the confidence surrounding the ongoing health of the U.S. economy sits with the consumer. The brief lull in spending growth that occurred at the end of 2018 reversed itself by the end of the first quarter of 2019. Consumer spending is now growing at roughly the same pace as U.S. GDP.

Overall, low interest rates and slow borrowing have kept the financial burden on households at record low levels for a number of years. Moreover, recent declines in interest rates—from where they were at the end of 2018—will lessen the burden further.

Falling interest rates also are the reason that the nation's housing market is starting to bounce back. Sales of new and existing homes are up, home price appre-

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Reality of Steady Economic Growth Disconnected from Political Rhetoric

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ciation is beginning to accelerate, and the third quarter saw residential investments contribute to overall growth. This was all fairly predictable, as noted in the last few editions of this outlook.

After all, none of the conditions for a major housing bust were in play. Instead, we've seen clean mortgage lending, no excess supply being built, and increases in overall affordability as measured by the housing cost share of income for U.S. households.

Tight Labor Markets

This is all being supported by record tight labor markets in the United States. The national job openings rate has been higher than the unemployment rate for two years now. Competition for scarce labor resources has led many workers to receive a significant increase in earnings, and a growing share of national income.

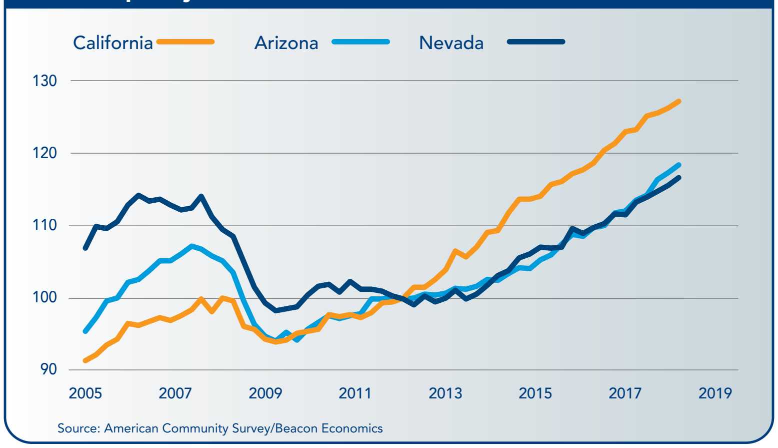
In 2014, compensation for employees was 60% of national income, compared to 63% in 2019. And it isn't just high-skilled workers who are enjoying the gains. According to data from the U.S. Census American Community Survey, workers without a high school degree have seen their pay increase by 15% since 2015—twice the pace of workers with college degrees.

Interestingly, most of this income has shifted from corporate profits, which fell from close to a record high of more than 14% of all national income in 2014 to less than 12% this year. Nominal corporate profits were flat over this time period. But this masks the reality that domestically profits have fallen sharply and have been balanced out only by an increase in overseas earnings.

While this contradicts the record high price levels equities are currently commanding, calling the market mispriced is substantially different than predicting large declines in values in the near term. As Keynes wisely noted, the market can stay irrational longer than you can stay solvent.

More important, this overpricing doesn't seem to be driving any real imbalances in the broader economy; hence a big decline in values is unlikely to have a large negative impact on U.S. GDP growth the way it did in 2000.

Real Output by State



Indeed, business investment has not kept up with stock market values the way it did in the late 1990s.

As noted, the one weak spot in the nation's GDP data in 2019 was in business investment. Spending is down in that area for any number of specific reasons, but not too many general ones. Pullbacks in investments in mining are being driven by low market prices for oil and declines in investment in transport equipment can be traced to problems at Boeing.

U.S. Exports

Weak export data has also played some role in slowing investment. But the overall impact of the trade war with China has been highly overstated. While it's true that both imports and exports of products to China have fallen sharply in the last two years, the overall value of U.S. imports and exports is roughly the same as it was two years ago. The United States is simply buying and selling more with other nations.

The biggest issue for U.S. exports isn't China, but rather a U.S. dollar that hasn't been this expensive in global currency markets since 2002. Indeed, alongside a weak global economy, the dollar's value actually illustrates the resilience of the U.S. economy overall.

The strong value of the U.S. dollar is in part being driven by higher interest rates in the United States as compared to much of the developed world. This is one of the reasons President Donald Trump has consistently criticized the Federal Reserve's slow pace of rate reductions relative to many other central banks around the globe.

Money Supply

While Beacon Economics strongly disagrees with the idea that rates need to go back to near 0, we have always been perplexed by the decision to raise rates so aggressively in the first place. There simply hasn't been sufficient growth in the money supply to allow for inflation. Indeed, weak M2 growth is why the Feds had to intervene and inject billions into the overnight inter-bank lending markets a few weeks ago. There is no reason to cool an economy that is not overheated in the first place.

Now the Fed is loosening, not to help the economy, but rather to unwind the yield curve that dipped into negative territory in August 2019. Putting further stress on a banking system that is already dealing with excessive limitations from Dodd Frank is definitely something to avoid.

It isn't that the United States is suffer-

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Reality of Steady Economic Growth Disconnected from Political Rhetoric

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ing from a lack of lending, but regulatory constraints on banks have pushed more lending into the less regulated parts of the industry—and there are growing signs of excess risk taking place in such markets. Again, such stresses do not represent any current threat to the U.S. economy, but may turn into a threatening imbalance in the future.

All in all, at its current steady pace of growth, it seems unlikely that the real economy will play much of a role in the 2020 presidential election cycle. But this is not likely to dissuade candidates from making their miserabilist pronouncements about the economy's health.

The disconnect between simple economic realities and political rhetoric is growing wider—and this may be the most dangerous trend of all. The less connected policymakers are from reality, the more likely their policies will hurt more than help.

California Outlook

Despite a nagging perception that there are murky clouds on the horizon, California's economy reached a number of significant milestones in the most recent quarter. The state's unemployment rate dipped to 3.9%, which represents a new record low, and employment and wages both reached all-time highs.

The longer the current expansion persists, the closer we are to the next recession, but business cycles do not die of old age, and at present, there are few signs of a slowdown in the state's economy.

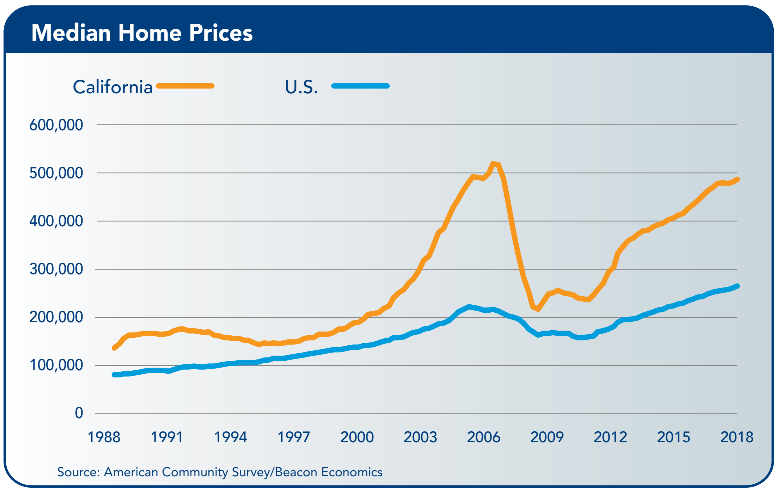
Employment Keeps on Soaring

Since October 2018, California's economy has added 308,000 jobs, which is equivalent to a 1.8% year-over-year increase, exceeding the nation's growth rate of 1.4% over the same period. This rate of growth is well above the state's long-term employment growth rate, which has averaged 1.2% per year since 1991.

Within the state, we see considerable variation in job growth rates by region. While Los Angeles has added the largest number of jobs over the last year, this is primarily a function of its size. As the largest region in the state, even a small growth rate in Los Angeles will add up to a large number of jobs relative to a region that has a high growth rate but is home to a smaller number of overall jobs.

Indeed, Los Angeles experienced a slower growth rate than many other parts of the state. The most impressive growth rate occurred in Merced, where we see the opposite effect—namely, in smaller economies the addition of a relatively modest number of jobs can inflate growth rates.

Perhaps the most impressive performance within the state occurred in the San Francisco Bay Area. Job growth in the Bay Area was remarkable, especially given the region's size. Together, San Francisco, San Jose and Oakland added jobs at a rate of 2.99%—more than double the national rate—and accounted for one-third of California's job growth over the last year.



Source: American Community Survey/Beacon Economics

Broad Sectoral Strength Continues

Fully 40% of California's job growth over the last year was concentrated in just two sectors: Health Care and Social Assistance, and Leisure and Hospitality. Different factors are driving growth in each of these sectors. Secular trends, such as a growing elderly population, account for growth in Health Care and Social Assistance employment.

Growth in Leisure and Hospitality employment is a sign of a strong economy as it reflects underlying strength in the health of the consumer. The more confident consumers feel, the more likely they are to travel or dine at a restaurant. Growing wages and high home prices also add to the consumer's strength and contribute to sectoral job increases.

Strong job growth also occurred in Government, Construction, and Professional and Scientific Services; however, the Retail Sector remains a dark spot in the state's economy. The reasons for the trouble are widely understood. Competition from online retailers has hit certain parts of the retail sector hard. This is especially true for department stores, which lack the flexibility and dynamism to compete with their online counterparts.

Against this generally sunny picture, California's labor force is a cause for concern. The state's labor force peaked in February 2019 and growth turned negative in August of this year. While it's not advisable to read too much into a few data points, the cost of living in California and the rate of new home supply are among the key factors that weigh on the labor force growth rate.

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Reality of Steady Economic Growth Disconnected from Political Rhetoric

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Signs of a Housing Slowdown? Not Quite

As always, the health of California's housing market consumes considerable bandwidth in public discourse. State and local leaders are absorbed by the topic, while new entrants to the market bemoan home prices. Despite suggestions to the contrary, home sales in the state remain strong. The rise in interest rates in 2018 placed a drag on sales, but rates have fallen this year and home sales have rebounded nicely.

Home price growth, however, has shown some signs of exhaustion over the last year. The median price for a single-family home in California grew 2.2% over this period, which when adjusted for inflation, means that price growth has effectively been flat.

To place this figure in context, since 2010, the median home price in the state has doubled, and such a relentless pace of appreciation cannot continue unabated. To be sure, lower interest rates should spur home price growth in the state, but it's unrealistic to expect the rate of growth we've seen in recent years to continue.

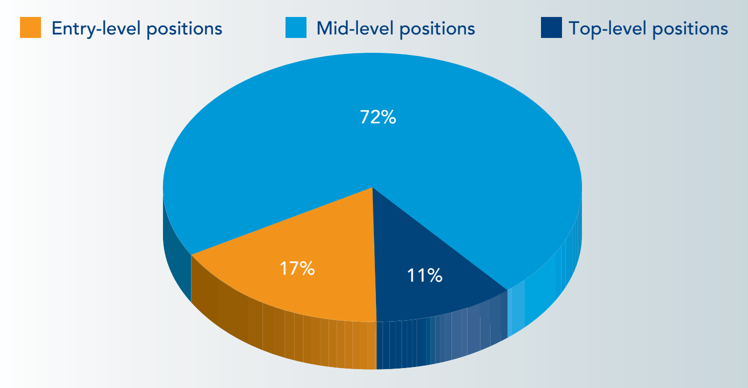
Home prices in some markets have become particularly overstretched and drawdowns in the median home price have occurred in some locations. Over the last year, the median home price fell by 4.1% in San Jose, while real home price decreases occurred in other major markets, including San Francisco, San Diego and Oakland. Real home price growth was effectively flat in Los Angeles.

Again, after the run up in prices that has occurred in recent years, such a slowdown is perhaps not surprising. When the median home price in San Francisco stands at $1.4 million, the room for sustained price inflation is limited, no matter the strength of the local economy.

The extended home price growth that has occurred in some regions also can spur growth in other parts of the state. Home price growth in less expensive areas, particularly in the communities of the Central Valley, has seen impressive gains, fueled by historically low interest rates and their affordability relative to coastal communities.

The issue of home building permits is, however, a cause for concern. The supply of building permits peaked in the first quarter of 2018, and permit growth turned negative in the third quarter of that year. This growth has remained negative throughout 2019.

What experience level do you have the most difficulty hiring?



Source: 1st Century Bank Small Business Survey, October 2019; Analysis by Beacon Economics

Constrained housing supply will continue to place upward pressure on home prices and also could limit growth of the state's labor force.

Trade Woes

California's exports and imports are both lower at this point in late 2019 than they were at the same time in 2018. Moreover, 2018 exports and imports were down around 10% compared to 2017. At present, this slowdown has not translated into a slowing of the state's labor market, in part because the state's economy relies so heavily on locally consumed services. But the continued unpredictability and whims of the Trump administration's trade policy is far from an ideal setting for the state's exporters.

Overall, the health of the labor market remains a pillar of strength for the state's economy. While this strength continues, the outlook for the state's overall economy remains strong.

Staff Contact: Dave Kilby

The California Chamber of Commerce Economic Advisory Council, made up of leading economists from the private and public sectors, presents a report each quarter to the CalChamber Board of Directors. The council chair is Christopher Thornberg, Ph.D., founding partner of Beacon Economics, LLC.

CalChamber-Led Coalition Challenges Anti-Arbitration Law

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AB 51

This past October, Governor Gavin Newsom signed into law **AB 51 (Gonzalez; D-San Diego)**, which the CalChamber had identified as a job killer. Effective January 1, 2020, AB 51 forbids employers from offering and entering into arbitration agreements with their workers, even if the workers may opt out of arbitration.

The law sets substantial civil enforcement mechanisms, providing possible avenues for investigation and enforcement action by California state departments, and for lawsuits by individuals.

Especially problematic is that the law establishes the extraordinary burden of criminal penalties as well, making it a misdemeanor to violate any part of AB 51's restrictions, which is punishable by imprisonment not exceeding six months, a fine not exceeding $1,000, or both.

"It is absurd that the Legislature has rejected additional criminal penalties to deter car break-ins, but is willing to impose criminal penalties for using arbitration agreements," Zaremberg said.

Preempted by Federal Law

The U.S. Supreme Court has explained that the FAA preempts both any state rule that "discriminates on its face against arbitration" along with any rule "that covertly accomplishes the same objective by disfavoring contracts that... have the defining features of arbitration agreements." (*Kindred Nursing Centers Limited Partnership v. Clark*, 137 S. Ct. 1421 (2017)).

The FAA similarly preempts any state law "lodging primary jurisdiction in another forum, whether judicial or administrative." (*Preston v. Ferrer*).

Moreover, the U.S. Supreme Court has held that the FAA preempts state law rules that disfavor arbitration in connection with the formation of a contract, as well as rules that disfavor the enforcement of arbitration agreements. Restrictions that single out arbitration agreements or derive their meaning from that fact that an agreement to arbitrate is at issue "flout the FAA's command to place those agreements on equal footing with other contracts" and are therefore preempted, according to the complaint (*Kindred Nursing Centers Limited Partnership v. Clark*).

Due to AB 51's conflict with federal law, the coalition's complaint requests that the Court declare AB 51 invalid and order state enforcers to not apply the law.

Benefits of Arbitration

Businesses routinely enter into arbitration agreements with workers, either as a condition of employment or on an opt-out basis, so that both parties can make use of alternative dispute resolution procedures. The U.S. Supreme Court, the complaint states, observed in *Circuit City Stores, Inc. v. Adams*, "there are real benefits to the enforcement of arbitration provisions. ... Arbitration agreements allow parties to avoid the costs of litigation, a benefit that may be of particular importance in employment litigation, which often involves smaller sums of money than disputes concerning commercial contracts."

The complaint points out that arbitration provides workers with a fair and effective means of resolving their disputes:

- **Arbitration procedures are fair**—the vast majority of agreements and the leading arbitration providers require fair procedures. If an arbitration agreement prescribes unfair procedures, courts can and will refuse to enforce the agreement.
- **Arbitration offers workers simple procedures** that they can navigate even without a lawyer. That simplicity matters because many workers who have disputes are unable to secure legal representation, and their inability to obtain a lawyer creates insurmountable obstacles to bringing claims in court.
- **Arbitration is faster than litigation in court.** As a recent study released by the U.S. Chamber's Institute for Legal Reform found, arbitration cases in which the employee brought the claim and prevailed took, on average, 569 days to complete, while cases in court required an average of 665 days.

Moreover, employees did better in arbitration than in court—in cases decided by an arbitrator or court (rather than settled), employees who filed claims won three times as often in arbitration—32% compared to 11%—and recovered an average award of $520,630 in arbitration compared to $269,885 in court.

- **Arbitration also lowers the costs of dispute resolution**, which creates savings that in part can be passed on to workers through higher wages and consumers through lower prices.

More Information

The coalition's complaint, which seeks only declaratory and injunctive relief, was filed against California Attorney General Xavier Becerra, Labor Commissioner Lilia Garcia Brower, Labor and Workforce Development Agency Secretary Julie A. Su, and California Department of Fair Employment and Housing Director Kevin Kish in their official capacities in the U.S. District Court, Eastern District of California.

For a copy of the complaint, go to ***www.calchamber.com/legalaffairs*** and click on "CalChamber in Court" in the dropdown menu.

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CALIFORNIA CHAMBER OF COMMERCE

P.O. BOX 1736 SACRAMENTO, CA 95812-1736
(916) 444-6670 FACSIMILE (916) 444-6685
www.calchamber.com

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