



In classic Greek mythology, a golden apple of discord inscribed "For the fairest" was awarded to Aphrodite, beginning a chain of events that led to the Trojan War. GrayRobinson's newsletter reports on the most recent issues, individuals, and discourse deemed fairest in Washington.

April 19, 2019

We've reformatted The Golden Apple as a publication of GrayRobinson. It looks a little different, but it's the same Golden Apple. Hope you enjoy our new look!

Kathleen Kraninger, Director of the Consumer Financial Protection Bureau (CFPB), gave [her first public address](#) this week before the Bipartisan Policy Center. Kraninger reported on her conclusions after a three-month "listening tour" that included meetings with all the Bureau's stakeholders; first among them, she said, "The CFPB's mission and the agency itself are critical to our economy are not going away." Kraninger plans to prioritize consumer education, particularly about the broader topic of "financial wellbeing," which includes the ability to withstand a financial shock. She said she would exercise the Bureau's rulemaking and guidance authority "where appropriate," and announced upcoming revisions to rules enforcing the Fair Debt Collection Practices Act. Kraninger has just assumed the chair of the Federal Financial Institutions Examinations Council, where her focus will be on strengthening coordination and collaboration.

CFPB plans symposia series on consumer protections

Separately, CFPB Director Kraninger [announced](#) the first in a series of symposia "to explore consumer protections in today's dynamic financial services marketplace." The first of these, which does not yet have a date, will focus on clarifying the meaning of abusive acts or practices under Section 1031 of Dodd-Frank. Future symposia will look at behavioral law and economics, small business loan data collection, disparate impact and the Equal Credit Opportunity Act, cost-benefit analysis, and consumer authorized financial data sharing. "As the Bureau has an open mind on where the process will go, any appropriate next steps would come after the Bureau has had time to digest the discussion at the given symposium," Kraninger said.

White House, HUD publish implementation plan for Opportunity Zones

The White House Opportunity and Revitalization Council and the Department of Housing and Urban Development released a [plan this week](#) to implement the Opportunity Zones tax incentive program created by last year's Tax Cuts and Jobs Act. The Council comprises representatives of 16 federal agencies and several state-federal partnerships. Its activities will be divided into five work streams: Economic Development, Entrepreneurship, Safe Neighborhoods, Education and Workforce Development, and Measurement. The Council has already identified more than 160 programs that could be eligible for targeting, preference, or additional support to Opportunity Zones, and has acted on [more than 50 programs](#).

FDIC, Fed propose changes to resolution plan requirements for large banks

The Federal Deposit Insurance Corporation and Federal Reserve Board published a [notice of proposed rulemaking](#) this week to amend the resolution planning requirements for large banks as required by Dodd-Frank and amended by the Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA). The Federal Reserve Board proposes to establish risk-based categories for applying resolution planning requirements to certain banking organizations, and both agencies propose to extend the resolution plan filing cycle and allow for more focused resolution plan submissions. Comments are due by June 21.

Federal regulators seek comment on supplementary leverage ratio for custodial banks

The FDIC, Federal Reserve and OCC issued a [notice of proposed rulemaking](#) this week to implement Section 402 of EGRRCPA, which would exempt certain funds of custodial banks from the supplemental leverage ratio of the regulatory capital rule. This change would apply only to The Bank of New York Mellon Corporation, Northern Trust, and State Street. The proposal will be open for comment for 60 days after publication in the Federal Register.

House Financial Services announces hearing schedule

This week the House Financial Services Committee [announced several hearings and a markup](#) scheduled for late April and May. The full Committee will hold hearings on "Housing in America" on April 30 and May 21, with the May 21 hearing focusing on oversight of the Department of Housing and Urban Development. The Committee will hear from the federal banking agencies at an oversight hearing on May 16. A full-Committee markup is scheduled for May 8 and 9, although the Committee has not yet announced a list of bills to be considered. The Subcommittee on Consumer Protection and Financial Institutions will hold a hearing on "Ending Debt Traps in the Payday and Small Dollar Credit Industry" at 2:00 p.m. on April 30, and subcommittee hearings in May will focus on discrimination in auto lending and insurance, the business case for diversity

and inclusion, promoting economic growth through worker protections, and assessing the use of sanctions in national security and foreign policy.

Senate Banking to conduct hearings on data privacy, regulatory oversight

The Senate Committee on Banking, Housing, and Urban Affairs, also published a list of upcoming hearings. On Tuesday, April 30 at 10:00 a.m., the Committee will hold a hearing on “Guidance, Supervisory Expectations and the Rule of Law: How do the Banking Agencies Regulate and Supervise Institutions?”, with witnesses to be announced. A week later, on May 7 at 10:00 a.m., the Committee will hear testimony on “Privacy Rights and Data Collection in a Digital Economy.” The Committee will hold its own oversight hearing on the federal regulatory agencies on Wednesday, May 15, with testimony from Comptroller of the Currency Joseph Otting, Federal Reserve Board Vice Chairman Randal K. Quarles, FDIC Chairman Jelena McWilliams, and NCUA Chairman Rodney Hood.

Fintech companies settle with FTC, SEC

In separate actions this week, online lending company Avant, LLC [settled the Federal Trade Commission's charges](#) that it engaged in deceptive and unfair loan servicing practices and marketplace lender Prosper settled the [SEC's allegations that it overstated earnings](#) to investors from 2015 to 2017. The FTC's settlement with Avant will return \$3.85 million to consumers, and will prohibit Avant from taking unauthorized payments and from collecting payments via remotely created checks (RCC). The SEC's settlement with Prosper includes a \$3 million fine.

Confirmations, Nominations, Departures

The Securities and Exchange Commission has promoted [Sara Cortes and David P. Bartels](#) to the positions of Deputy Chief Counsels of the Division of Investment Management.

Next Week in Washington

Congress remains in recess until April 29.

The Ellis Insight

Jim Ellis reports on political news

PRESIDENT

Emerson Poll: The new Emerson College poll (4/11-14; 356 Democratic likely primary voters) is getting some media attention because it projects Sen. Bernie Sanders (I-VT) overtaking former Vice President Joe Biden for the national lead by a 29-24% count. Following in third place is newly announced presidential candidate Pete Buttigieg, the Mayor of South Bend (IN), with 9% support. Ex-Rep. Beto O'Rourke (D-TX) and Sen. Kamala Harris (D-CA) are next with 8% apiece, just ahead of Massachusetts Sen. Elizabeth Warren who posts 7% preference. All others record 3% or less.

But, the result analysis is overblown. Because the Democratic sample comes from a national general election poll universe, the segmented cell is much too small to accurately gauge candidate support throughout the nation. While a sample of 356 individuals is quite adequate for a congressional district, it is barely one-third the size necessary to provide relevant national data. Therefore, further verifying evidence of an enhanced Sanders positive trend is required before suggesting that the Senator may be pulling away from the candidate field.

SENATE

Colorado: While the Democratic field to challenge Sen. Cory Gardner (R) appears weak after former Gov. John Hickenlooper (D) decided to run for President instead of Senate, two potentially stronger individuals declared their candidacies this week. Former Obama Administration diplomat Dan Baer, who in 2018 began running for what appeared to be an open 7th District congressional office when incumbent Ed Perlmutter (D-Golden) declared for Governor but then withdrew when the Congressman decided to seek re-election, is one of the new candidates. Immediately after the Baer announcement, former US Attorney John Walsh also joined the fray. Until these two men entered the race, the leading candidates appeared to be former state House Speaker Andrew Romanoff, who has lost races for both the US House and Senate, and ex-state Sen. Mike Johnston who placed third in last year's Democratic gubernatorial primary.

Maine: Earlier, we commented that Rep. Chellie Pingree (D-North Haven/Portland) was giving no indication that she would challenge Sen. Susan Collins (R) next year, and now we have more tangible evidence to support such a conclusion. Complying with yesterday's campaign finance disclosure deadline, Rep. Pingree reports only raising \$26,000 for the first quarter of this year and holding \$232,000 in her campaign account. These are hardly numbers one would expect from a serious potential Senate candidate, especially when Sen. Collins holds \$3.8 million in her campaign account.

North Carolina: Former state Senator Eric Mansfield (D-Cape Fear), a physician, announced that he is forming a US Senate exploratory committee as a prelude to entering the 2020 campaign. Dr. Mansfield served one term in the NC Senate, risking his seat in 2012 to run for Lt. Governor. He failed to secure the statewide Democratic nomination.

Already in the Democratic primary are state Sen. Erica Smith (D-Gaston) and Mecklenburg County Commissioner Trevor Fuller. The winner will challenge first-term incumbent Sen. Thom Tillis (R). So far, North Carolina candidate recruitment has disappointed Democratic Party leaders since no statewide figure has come forward to enter the race.

HOUSE

CA-15: Northern California Rep. Eric Swalwell (D-Dublin/Hayward) has announced his presidential campaign, but he hasn't completely ruled out returning to the House if his long-shot national effort comes up empty. The Congressman left the door open to changing course before the California candidate filing deadline on December 6th of this year in order to seek re-election.

At least one political player, however, isn't waiting for Rep. Swalwell to make his decision. Hayward City Councilwoman Aisha Wahab announced her congressional campaign late last week, and there was no mention of departing the race if the four-term Representative ultimately decides to seek re-election. Additionally, state Sen. Bob Wieckowski (D-Fremont) confirms that he, too, is preparing to soon file a congressional campaign committee with the Federal Election Commission.

IA-2: Seven-term Iowa Congressman David Loebsack (D-Iowa City) announced that he will not seek re-election next year. Mr. Loebsack, a member of the House Energy & Commerce Committee, originally defeated then-Rep. Jim Leach (R) in 2006. Rep. Loebsack's surprising retirement announcement has changed the southeastern Iowa political equation. Thus, no one has immediately come forward to run for the House. Yesterday, however, state Sen. Kevin Kinney (D-Oxford) confirmed that he is considering entering what is now an open seat race. Same for Iowa City local business owner Veronica Tessler (D) who has already filed a campaign committee with the Federal Election Commission. The eventual Democratic nominee will be favored here, but we can expect crowded and competitive primaries in both parties.

NJ-7: As promised, state Senate Minority Leader Tom Kean, Jr. (R-Westfield), the son of

former Governor Tom Kean, Sr. and a former US House and Senate candidate, formally announced his campaign for the 7th Congressional District. Looking like a consensus Republican candidate, Sen. Kean will very likely face freshman Rep. Tom Malinowski (D-Rocky Hill) in the general election. Mr. Kean is the Republicans top choice to run here, and the nature of this CD suggests we will again see a highly competitive battle next year.

NY-10: Former Cuomo Administration economic advisor Lindsey Boylan, who said earlier in the year she is considering challenging House Judiciary chairman Jerrold Nadler (D-Manhattan) in the 2020 Democratic primary, yesterday took a step closer to launching her campaign. Ms. Boylan filed a congressional campaign committee with the Federal Election Commission, which is the prelude to becoming an official candidate.

NY-15: New York City Councilman and self-proclaimed “conservative Democrat” Ruben Diaz, Sr. announced that he will run in the open 15th District Democratic primary for the right to succeed retiring Rep. Jose Serrano (D-Bronx). Mr. Diaz hopes to appeal to moderate and right of center Democratic voters, a small group in this district, which is the most Democratic in the entire nation at least based upon the 2016 presidential results.

NY-21: Former St. Lawrence County local legislator Tedra Cobb (D), who challenged three-term Rep. Elise Stefanik (R-Schuylerville/ Watertown) last year but lost by a substantial 56-42% margin, announced that she will return for a rerun contest next year.

The area now comprising the 21st District had been in Democratic hands until Ms. Stefanik succeeded retiring Congressman Bill Owens in the 2014 election. At this early point in the cycle, Rep. Stefanik, who at the time she was elected was the youngest female ever to win a US House seat (30 years of age), begins the 2020 race as a strong favorite for re-election.

NY-24: This week 2018 Democratic congressional nominee Dana Balter announced that she will return to run for Congress again next year. Ms. Balter, who drew mixed reviews as a candidate despite holding Rep. John Katko (R-Syracuse) to a 52-46% re-election victory, will have company in the Democratic primary. In addition to Navy veteran Roger Misso (D), who previously joined the congressional campaign, a new military veteran, Francis Conole, the grandson of former Onondaga County Sheriff Patrick Conole, yesterday announced his intention to run.

NC-9: The National Association of Realtors PAC is playing big in North Carolina's 9th District special election, and for one of their own. RPAC filed an independent expenditure declaration that they intend to spend \$868,000 between now and the May 14th primary to help nominate realtor Leigh Thomas Brown in the Republican primary.

If successful, she will face 2018 Democratic nominee Dan McCready, who is unopposed in the Democratic primary. To be nominated, a contender must receive at least 30% of the vote in the party primary. If no candidate reaches this threshold, a special runoff election will be held on September 10th between the top two primary finishers. The special general would then be held on November 5th.

UT-4: Freshman Rep. Ben McAdams (D-Salt Lake City) unseating former Rep. Mia Love (R) by 694 votes in November means he can expect a major re-election battle in what should be a safely Republican seat.

Yesterday, two Republican legislators signaled that they are beginning to take steps toward entering the congressional race. State Sen. Dan McCay (R-Riverton) and state Rep. Kim Coleman (R-West Jordan) both say they are considering becoming candidates. This district figures to be in the top five of Republican conversion targets in 2020.

VA-5: One freshman congressional district that won't feature the 2018 candidates is Virginia's 5th CD. This week, Democratic nominee Leslie Cockburn, who secured 47% of the vote against businessman Denver Riggleman (R), says she will not return for another campaign.

Remaining in the Democratic primary is Marine Corps veteran Roger Dean Huffstetler, who finished second in the 2018 Democratic contest. Without another strong contender entering, Mr. Huffstetler will likely have the inside track to winning the party nomination and then facing Rep. Riggleman late next year.

GOVERNOR

Kentucky: The May 21st Democratic gubernatorial primary is fast approaching, and former state Auditor Adam Edelen just released his campaign's Anzalone Liszt Grove Research survey (released 4/18; 500 KY likely Democratic primary voters). According to the results, Attorney General Andy Beshear, son of former Governor Steve Beshear, leads the field with 43% of the vote. Mr. Edelen is second with 23%, and Mr. Adkins follows closely with 22%.

It is clear that AG Beshear is the man to beat and even his opponent's data suggests that his primary lead may be too much for any of his challengers to overcome. The winner will do battle with Gov. Matt Bevin (R) in what will be a competitive 2019 general election.

Mississippi: What was once thought to be a walk for Lt. Gov. Tate Reeves in the Republican gubernatorial primary may turn into more of a challenge. This week, four former Mississippi Republican Party ex-chairmen jointly endorsed Republican retired state Supreme Court Justice Bill Waller, Jr. over Mr. Reeves. If Judge Waller can prove an adept fundraiser, this early August primary may be more of a race than originally perceived.

Montana: In 2016, businessman Greg Gianforte (R) came within four points of unseating Gov. Steve Bullock (D), who is now apparently preparing to enter the Democratic presidential campaign. Ever since, speculation has continued that Mr. Gianforte would return to the Governor's race in 2020. Since then, he won a special and regular election for the state's at-large House seat, and one of the promises he gave the party leaders in that original congressional race was not to quickly leave the seat to again run for Governor. This week, a Gianforte staff member confirmed, however, that the Congressman is considering the Governor's campaign and has not yet ruled out joining the open seat race, a contest that already features Attorney General Tim Fox (R) and Secretary of State Corey Stapleton (R). Should Gianforte make the leap back into the Governor's race, we can also expect a major open seat battle for the congressional seat.

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