



*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.*

June 12, 2020

The District of Columbia and northern Virginia are moving to Phase II of reopening next week, and our Washington office will reopen on Monday, though some of us will continue to work from home. We found [this article](#) from the New York Times helpful as we plan to stay safe and keep our visitors safe. In short: we're avoiding contact, confinement, and crowds, and we're making choices about how best to move forward. We look forward to seeing many of you in person before too long, though, and we hope you're staying healthy, too.

### **Consensus builds to allow second round of PPP loans for some industries**

Republican and Democratic members of the Senate Small Business Committee asked Treasury Secretary Steven Mnuchin whether he would support allowing businesses that are not yet ready to reopen to apply for additional funds through the Paycheck Protection Program, and Mnuchin seemed amenable to the idea at a [hearing on Wednesday](#). The program still has \$130 billion in funding available, and it is clear that some con, particularly those in the hospitality industry, will not be able to reopen at full strength for some time. Small Business Administrator Jovita Carranza said that all pending applications to the SBA's Economic Injury Disaster Loan (EIDL) program will clear the SBA's portal next week, while senators voiced concern about the program's delays and lack of communication with borrowers. Senators on both sides of the aisle agreed that the EIDL loan caps imposed by the SBA are contrary to Congressional intent and should not be necessary, and several urged Secretary Mnuchin to remove restrictions on PPP loans to borrowers with criminal records.

### **Senators ask Mnuchin, Carranza to simplify PPP forgiveness**

In two separate letters this week, Senators asked the Secretary of the Treasury and the Administrator of the Small Business Administration to simplify and streamline the process of applying for forgiveness for Paycheck Protection Program (PPP) loans. The 11-page forgiveness application "is especially burdensome, time-consuming, and costly for very small and underserved businesses," said a letter signed by all Senate Democrats. Senators Doug Jones (D-AL) and Kyrsten Sinema (D-AZ) joined Senate Republicans on a letter asking Secretary Mnuchin and Administrator Carranza to reduce the forgiveness application to a single page for any loan of less than \$250,000. While scrutinizing applications for loans above \$2 million "is an appropriate oversight of taxpayer resources," the Senators said,

failing to streamline the process for smaller loans would deprive small businesses of the relief they need and “introduce a needless complication to our nation’s economic recovery.”

### **Waters, Meeks seek Congressional review of new OCC rule on CRA**

House Financial Services Committee Chairwoman Maxine Waters (D-CA) and Consumer Protection and Financial Institutions Subcommittee Chairman Gregory Meeks (D-NY) introduced a [Congressional Review Act resolution](#) this week in an effort to reverse the Comptroller of the Currency’s recent final rule implementing the Community Reinvestment Act. Waters said that former Comptroller Joseph Otting had “recklessly pushed ahead” with a rule that will lead to disinvestment in underserved communities. Chairman Meeks called the rule “rushed and incomplete.”

### **FHFA extends pandemic relief measures for Fannie and Freddie**

Yesterday the Federal Housing Finance Agency (FHFA) announced that the loan origination flexibilities authorized for Fannie Mae and Freddie Mac because of COVID-19 will apply until at least July 31. These flexibilities include alternative appraisal methods on purchase loans and refinancing, alternative methods for verifying borrowers’ employment, expanding the use of power of attorney and remote notarizations, and the authority to purchase mortgages in forbearance.

### **Fed expands Main Street Lending Program**

The Federal Reserve Board lowered the minimum loan amount and raised the maximum loan amount for its Main Street Lending Program this week and extended the term of program loans to five years, in an effort to make the program more available to small and medium-sized businesses. The minimum loan size will be \$250,000, while the maximum could be as much as \$300 million. Principal repayment will be deferred for two years, and interest rates deferred for one year. Lender registration for the Main Street Lending Program should begin “soon,” the Board said; the program will purchase 95% of every eligible loan made under the program. Additional information is on the Fed’s website, [here](#).

### **New Comptroller prioritizes fintech, says “true lender” rule is coming**

In an [interview yesterday](#), Acting Comptroller of the Currency Brian Brooks said that financial technology is his top priority. He sees bank-fintech relationships as a powerful means of reaching underserved communities, and promised that the agency would soon issue a Notice of Proposed Rulemaking to clarify its “true lender” doctrine. Brooks said that the OCC would offer an “aggressive defense” to any legal challenges to its recent rule seeking to clarify that state usury limits do not apply to loans originated by national banks, regardless of where the loan may be sold. He expects the FDIC to promulgate its own rule to address this issue (the Madden decision) soon. Brooks said that any “true lender” regulation would set a bright line standard for whether a bank is the real originator of a loan, and not a “rent-a-charter” scheme.

### **Colorado court challenges “valid when made” doctrine for nonbanks**

Meanwhile, a Colorado judge [ruled this week](#) that the National Bank Act’s preemption of state usury caps does not apply to nonbanks when a banks transfer loans to them. Judge Michael Vallejos of the District Court for the City and County of Denver wrote that “Congress could have easily included additional language if it intended this privilege (preemption of state laws) to extend beyond banks, their branches, or subsidiaries.” If the defendants in this case (Fulford v. Marlette Funding et al.) were the true lenders, the interest rates would exceed Colorado’s statutory limits. The court specifically did not consider the OCC’s recent rule on the issue: “While the Court accepts that these federal agencies [OCC and FDIC] are entitled to some deference, the fact is that the rule proposals are not yet law.”

## Next Week in Washington

- **June 16 at 10:00 a.m.** Senate Banking Committee holds a hearing on "[The Semiannual Monetary Policy Report to the Congress](#)." Federal Reserve Board Chairman Jerome Powell will testify.
- **June 16 at 12:00 noon** House Financial Services Subcommittee on National Security, International Development, and Monetary Policy holds a hearing on "[Cybercriminals and Fraudsters: How Bad Actors are Exploiting the Financial System during the COVID-19 Pandemic](#)."
- **June 17 at 12:00 noon** House Financial Services Committee holds a hearing on "[Monetary Policy and the State of the Economy](#)." Federal Reserve Board Chairman Jerome Powell will testify.
- **June 17 at 3:00 p.m.** Senate Finance Committee holds a hearing on "[The President's 2020 Trade Policy Agenda](#)." US Trade Representative Robert Lighthizer will testify.
- **June 18 at 4:00 p.m.** House Transportation Subcommittee on Transportation & Maritime Security holds a hearing on "[Climbing Again: Stakeholder Views on Resuming Air Travel in the COVID-19 Era](#)."

## The Ellis Insight

Jim Ellis reports on political news

### President

**Democratic Nomination:** Former Vice President Joe Biden clinched the Democratic nomination on Tuesday night in Georgia with an 84% victory and a 65% West Virginia win, sweeping the states' combined 133 bound first-ballot votes. By all counts now, Mr. Biden has exceeded the minimum 1,991 delegate votes to officially clinch the party nomination.

### Senate

**Georgia:** With almost all of the remaining Georgia statewide ballots counted, documentary film maker and former congressional candidate Jon Ossoff has been declared the winner of Tuesday's Democratic US Senate primary. He now advances into the general election against Sen. David Perdue (R) with a 51% primary victory over former Columbus Mayor Teresa Tomlinson and ex-Lt. Governor nominee Sarah Riggs Amico.

**Iowa:** Public Policy Polling, surveying for EMILY's List, an organization supporting new Iowa Democratic US Senate nominee Theresa Greenfield, released a post-primary flash poll that found Sen. Joni Ernst (R) trailing her new opponent by two percentage points. According to the PPP study (6/3-4; 963 IA registered voters), Ms. Greenfield edges Sen. Ernst, 45-43%. The Civiqs survey research organization, polling for the Daily Kos Elections website (6/6-8; 865 IA registered voters), finds a similar conclusion with Ms. Greenfield posting a 48-45% edge over Sen. Ernst. The Iowa race clearly begins in toss-up mode.

**Michigan:** Wolverine State pollster Epic-MRA (5/30-6/3; 600 MI likely voters) finds Sen. Gary Peters (D) reaching his largest lead of the election cycle over Republican business owner and retired Army Ranger John James. The data gives Sen. Peters a 15-point advantage over Mr. James, 51-36%. The same poll finds former Vice President Joe Biden posting a 12-point, 53-41% Michigan lead over President Trump.

**Mississippi:** Public Policy Polling (5/27-28; 871 MS registered voters; 50% via a text survey) sees Sen. Cindy Hyde-Smith's (R) lead over former US Agriculture Secretary and ex-Mississippi Congressman Mike Espy (D) diminishing from the huge 28-point advantage the early May Impact Management Group study produced. The PPP result finds the Senator's margin to be 49-41%. Relying on text messaging to obtain survey research is a tactic not often used. A 50% share of text respondents participating in this poll raises reliability questions.

## House

**GA-7:** 2018 Democratic party nominee Carolyn Bourdeaux was projected to be heading to a runoff with state Rep. Brenda Lopez Romero (D-Norcross) after Tuesday evening and Wednesday morning's vote count, but now reports are surfacing that approximately another 30,000 District 7 ballots have arrived post-election. Such a number could be enough to catapult Ms. Bourdeaux over the majority mark. It will likely be over the weekend until we see a definitive result in this campaign.

The 2018 7th District race was decided by just 419 votes in favor of Rep. Rob Woodall (R-Lawrenceville) and now, as an open seat with the Congressman retiring, the 2020 general election is rated a pure toss-up. On Tuesday, physician and Navy veteran Rich McCormick easily won the Republican nomination outright with 55% in a field of seven candidates. Therefore, Bourdeaux being forced to an August 11th runoff would certainly give Mr. McCormick an extra advantage.

**GA-13:** Now that the Atlanta vote results are finally coming forth, we see an upset of sorts in the suburban 13th Congressional District. Spending just \$875 on her campaign, former state Rep. Keisha Waites has forced nine-term Rep. David Scott (D-Atlanta) into a runoff election. Mr. Scott only pulled 47% of the vote in his own primary, with Ms. Waites trailing at 31%. The other two contenders who spent a combined \$60,000 received the remaining 22 percent.

It remains to be seen if Ms. Waites can attract national left-of-center money with which to compete in the August 11th secondary election. The seat will remain in the Democratic column regardless of who becomes the party nominee. The Democratic nomination can be considered competitive in the runoff since 53% of the more than 87,000 votes already counted have gone to a challenger candidate.

**MA-3:** For weeks it appeared that 2018 Massachusetts congressional candidate Dan Loh, who lost to now-Representative Lori Trahan (D-Lowell) by just 143 votes in the Democratic primary, was ready to launch another challenge. Three things had happened since the last election that suggested Mr. Loh was all in for another run, including him raising money and constructing a campaign operation. The other two happenings were Mr. Loh getting elected as a Selectman in the town of Andover, and Ms. Trahan coming under investigation for potential campaign finance violations.

Yet, it appears that the Congresswoman went from facing a strong primary opponent to having none at all. Candidate filing is now finalized in Massachusetts and Mr. Loh decided not to enter the race, thus allowing Rep. Trahan to find herself without a Democratic opponent. Furthermore, she's also unopposed in the general election.

**NY-17:** The battle to succeed veteran Rep. Nita Lowey (D-Harrison/White Plains), who is retiring after what will be 16 congressional terms, has drawn eight Democratic candidates. A new Data for Progress poll (released 6/4; 302 NY-17 likely Democratic primary voters) suggests that at least four of the candidates have a chance to win the June 23rd primary election. The eventual Democratic nominee is a lock in the general election.

According to the DFP survey, state Senator David Carlucci (D-Ossining) has taken a slight lead over former Obama Defense Department official Evelyn Farkas, ex-federal

prosecutor Adam Schleifer, and attorney Mondaire Jones. The ballot test breaks 15-13-13-12% for Carlucci over Farkas, Schleifer, and Jones. Among the 38% who said they were undecided, Sen. Carlucci attracts 16% when asked to which candidate the respondent might be leaning, far ahead of any other even though he is one of the lesser fundraisers. Sen. Carlucci is one of five members of the Independent Democratic Caucus who voted to keep Republican leadership for the previous state Senate session. Therefore, the crowded field allows him to attract the less liberal voter in the Westchester and Rockland County region, which may open a surprising path to the nomination.

**TX-24:** According to a story in the Texas Scorecard online publication and others, Democratic congressional candidate Kim Olson made a controversial statement during an interview yesterday. She said, in response to a question about defunding the police that, "[e]ven if people loot, so what? Burn it to the ground, you know, if that's what it's going to take to fix our nation." She then added that, "I don't think people want me to say that."

Ms. Olson, a retired Air Force Colonel and defeated 2018 State Agriculture Commissioner candidate is running against local school board trustee Candace Valenzuela in the July 14th Democratic runoff campaign in a contest that is becoming highly competitive.

## **Governor/States**

**Additional June 9th Primary Results:** In the competitive Georgia House races, Rep. Lucy McBath (D-Marietta) will now officially face former Rep. Karen Handel (R) in the Atlanta suburban 6th District. This race finished 50-49% in 2018.

Runoffs are occurring in the safe Republican and open GA-9 and GA-14 US House Districts. In Rep. Doug Collins' (R-Gainesville) open 9th CD, state Rep. Matt Gurtler (R-Tiger) and retired Navy officer Andrew Clyde advance to the August 11th runoff. Rep. Collins is not seeking re-election in order to run in the special US Senate election.

In the 14th CD, from where veteran Rep. Tom Graves (R-Ranger/Rome) is retiring, conservative activist Margorie Greene and surgeon John Cowan advance to the second round. Both seats will be decided in the August runoff, as the Republican nominee in each of these northern Georgia districts will win in November.

Long voting lines in Nevada and the decision to allow mail ballots to be postmarked on Election Day mean the results of these primaries, most particularly in the 3rd and 4th Congressional District Republican races to face Reps. Susie Lee (D-Las Vegas) and Steven Horsford (D-Las Vegas), respectively, likely won't be known for several more days. There was a development, however, in the 3rd Congressional District Republican primary the day after the election when candidate Dan Schwartz, trailing retired professional wrestler Dan Rodimer by eleven percentage points but with only 23,000+ votes counted, all but conceded when making public comments. It is expected that Mr. Rodimer will win the GOP nomination to face Rep. Lee.

In the 4th District GOP primary, the race is tight between former Assemblyman Jim Marchant and insurance agency owner Sam Peters. The eventual winner faces Rep. Steven Horsford (D-Las Vegas) in November.

In South Carolina, state Rep. Nancy Mace (R-Daniel Island), despite released polling that forecast a toss-up race, easily defeating Mt. Pleasant City Councilwoman Kathy Landing with over 57% of the vote. Ms. Mace will now challenge freshman Democrat Joe Cunningham (D-Charleston) in a district that should elect a Republican. Expect this to be a national campaign that is a must-win contest for the GOP.

No surprises in the North Dakota and West Virginia races. All incumbents in both states appear secure for re-election. West Virginia Gov. Jim Justice, in his first Republican primary since he was originally elected as a Democrat before switching parties, easily won nomination with more than 63% of the vote against two opponents.

**Missouri:** Former Missouri Gov. Eric Greitens (R), who resigned his office over a sex scandal and has recently seen the related legal case against him dropped over prosecutorial misconduct, may be planning to return to active candidate status in 2024. Mr. Greitens had kept his campaign committee open, largely because he could pay legal fees from his political account. Now, however, he has already filed with the Missouri Ethics Commission for an undisclosed 2024 statewide campaign.

While the move allows him to continue raising funds to pay continuing legal expenses from the political fund, Mr. Greitens has also begun to re-surface in public policy discussions.

**Utah:** It is probable that the winner of the June 30th Republican primary will succeed retiring Gov. Gary Herbert (R) in November. The primary outcome became a bit more clouded when Suffolk University released its survey for the Salt Lake Tribune (6/4-7; 500 UT likely Republican primary voters).

According to Suffolk, Lt. Gov. Spencer Cox's lead over former Governor and US Ambassador Jon Huntsman has shrunk to just two percentage points, 32-30. In third position is former state House Speaker Greg Hughes at 14% support, and ex-Utah Republican Party chairman Thomas Wright trailing with 8% preference. It appears this primary race will be a dash to the political finish line between the top two contenders at the end of the month.

### The GrayRobinson Lobbying Team

[Doyle Bartlett](#) | [Dean Cannon](#) | [Chris Carmody](#) | [Larry Cretul\\*](#) | [Chris Dawson](#) | [Katie Flury\\*](#)  
[Charlie Gray](#) | [Keenan Hale\\*](#) | [Rheb Harbison\\*](#) | [John Harris\\*](#) | [Mike Huey](#) | [Ty Jackson](#)  
[George Levesque](#) | [Jessica Love\\*](#) | [Chris McCannell\\*](#) | [Kim McDougal\\*](#) | [Greg Mesack\\*](#)  
[Kirk Pepper\\*](#) | [Joseph Salzverg](#) | [Todd Steibly\\*](#) | [Robert Stuart\\*](#) | [Jason Unger](#)

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