

2023 MVP

Craig Primis



Craig Primis of Kirkland & Ellis LLP led the firm's efforts to defend United Healthcare's \$13 billion purchase of Change Healthcare against a failed intervention by the U.S. Department of Justice, landing him a spot among Law360's 2023 Trial MVPs.

"I've definitely made a concerted effort over time to take on any different type of case that came in, and then learn as much about it as I could at that time."

Why he's a trial attorney:

Primis told Law360 that in a legal world increasingly dominated by specialists, each homed in on their own niche of the law, he's "made a determined effort to be a generalist."

"I will try any case of any type," he said. "I think there's a skill set and a set of instincts that go with being a trial lawyer that are critical and apply to every different type of subject matter that you can get involved in."

Avoiding getting hemmed into a particular corner, he said, keeps him

on his toes and his mind interested in his work. And he argued that being an all-purpose trial attorney is its own sort of specialization.

"Some people really just want to become a master of a specific area, like securities or antitrust. That's all they do. I get concerned that I would potentially get bored if I were doing that," Primis said. "So I've definitely made a concerted effort over time to take on any different type of case that came in, and then learn as much about it as I could at that time."

What motivates him:

Relying on his trial skills and instincts when walking the high wire in front of a jury provides a thrill that's unmatched, Primis said.

"Reacting and thinking on the spot, and developing your best response, where it's just you and you have very little time to think it through ... that's exhilarating. It's challenging, and it's fun," he said.

"I think it's what gets most trial lawyers up in the morning and makes you want to go to court and have that

challenge. That's not for everybody. Not everybody enjoys that. But if you do enjoy that, there's no place like being in a courtroom," Primis said.

He continued, "There's no adrenaline rush like either waiting for a jury to come back, or when you get the PACER alert that your decision has come down in your case. And if you don't get that kind of adrenaline rush, you probably shouldn't be doing this anymore. Which is advice I've gotten from multiple of my mentors — if you don't still feel the butterflies, it's time to hang it up."

His biggest accomplishment:

Primis was quick to answer that the most significant win of his last year was successfully defending United Healthcare's \$13 billion acquisition of Change Healthcare, where he served as lead trial counsel. Though the Department of Justice attempted to block the purchase on antitrust grounds, a D.C. federal judge sided with United in September 2022 and allowed the deal to move forward.

"When the government decides to challenge a merger, there's enormous time pressure on the merging parties to get the case to trial as soon as possible, because most merger agreements have dates by which the merger expires. And the deal then goes away," Primis said. "The Department of Justice knows that, so it puts in an enormous amount of pressure on the timeframe in which you litigate the case."

Primis said that he and his colleagues were going up against

a team of about 30 government attorneys, with a mere six months to prepare between when the case was filed in February 2022 and an August trial date.

“ There’s no adrenaline rush like either waiting for a jury to come back, or when you get the PACER alert that your decision has come down in your case.”

"In those cases, you are really facing the full weight of the Department of Justice and the United States government. The Department of Justice had over 30 lawyers assigned to that case, and they were intent on blocking this deal," he recalled. "We had five to six months to persuade a federal court not to do that. Any time you take on that kind of challenge, with that kind of time pressure, with complex business and legal issues, it's exhilarating."

Another feather in his cap was Kirkland's work for Honeywell International, which was locked into litigation over the status of a trust established for asbestos claims against its former subsidiary North American Refractories Co. Prior to the agreement with the trust negotiated by Kirkland last

year, Honeywell was obliged to pay into an "evergreen fund" that limited the company's annual liability but kept its long-term obligations uncapped in perpetuity.

Approved in December 2022, the new arrangement allowed Honeywell to make a one-time payment of more than \$1.3 billion to the trust in exchange for being released from its future obligations.

"It was a unique, one-of-a-kind arrangement that no other company had ever entered into," Primis said of the former trust structure. "We came into it 15 years after the structure had been created and negotiated a new approach, and that was approved by the federal bankruptcy court."

His advice to younger attorneys:

For lawyers who want to one day make their name as rock-solid trial attorneys, Primis counseled that their first priority should be finding mentors who will take them under their wing.

"Seek out good mentors," he said. "And put yourself in a position to get the types of opportunities that will make you a good trial lawyer, like appearing in court, examining witnesses, and making arguments."

The other key, he added, is saying yes to as many different opportunities as possible.

"You shouldn't be too choosy in terms of what cases you jump on, because sometimes the

best opportunities come out of cases when you least expect it. If you see something that looks like it has a chance of going to trial, just jump in headfirst and see where it goes,” he said.

“Reacting and thinking on the spot, and developing your best response, where it’s just you and you have very little time to think it through ... that’s exhilarating. It’s challenging, and it’s fun.”

REPRINTED WITH PERMISSION FROM THE NOVEMBER 2, 2023 EDITION OF LAW360 © 2023 PORTFOLIO MEDIA INC. ALL RIGHTS RESERVED. FURTHER DUPLICATION WITHOUT PERMISSION IS PROHIBITED.

WWW.LAW360.COM