

## Mike H. Shanlever

Partner

+1 404 881 7619

mike.shanlever@alston.com

Atlanta | One Atlantic Center, 1201 West Peachtree Street, Suite 4900 | Atlanta, GA 30309-3424



Mike Shanlever devotes his practice to complex construction, particularly EPC projects in the energy, industrial and infrastructure sectors. Across the globe, Mike advises public and private owners and contractors throughout the project life cycle and claims process. Mike has litigated and arbitrated billions of dollars in disputes concerning schedule issues, cost overruns, performance guarantees, regulatory compliance, and defective design/construction claims. Mike leads large litigation teams, relying on an extensive network of experts, through trial and alternative evidentiary proceedings. He has substantial experience in state and federal courts throughout the country, domestic arbitration, and international arbitration.

Mike is ranked by *Chambers USA* and listed in *The Best Lawyers in America*<sup>®</sup> as a leader in Construction law. He is a member of the ABA Forum on the Construction Industry and serves as a board member and secretary of the Smart Energy Consumer Collaborative.

### *Representative Experience*

- Counsel to a state-owned Asian utility in an ICC arbitration arising from the construction of a nuclear power generating facility. Claims and counterclaims between the utility and its contractor, an international nuclear reactor designer and services provider, involved nonconforming systems and allegations of nonpayment totaling over \$500 million. The dispute was the subject of a four-week evidentiary hearing in Asia – before a tribunal including members from Australia, the U.S., and UK – and involved the live testimony of over 30 fact witnesses and 12 experts.
- Representing a joint venture in an action to enforce capital call obligations of a defaulting joint-venturer on a \$2.3 billion public-private partnership project with the Florida Department of Transportation to revamp a 21-mile portion of Interstate 4 in Orlando, FL.
- Representing an engineering services company in defense of claims arising out of the development of two biomass plants in Franklin and Madison Counties, GA. Claims exceed \$250 million and involve disputes concerning plant design, construction, and performance. The matter is proceeding in ad hoc arbitration.
- Representing a Brazilian general contractor in an LCIA arbitration concerning the construction of a highway in Trinidad & Tobago. Claims and counterclaims exceeded \$360 million and involved a three-week evidentiary hearing in 2022 involving 16 fact and expert witnesses.
- Representing an oil field developer in an ICSID arbitration against a CIS state arising out of the state's interference with the development of the field. Claims exceed \$1 billion.
- Representing a railway development company in an international arbitration involving the failure of two central/eastern African nations to optimize railway viability. Claims arise from the nations' failure to coordinate customs and concession fees, their improper subsidization of competitive modes of transportation of goods, and a variety of other actions detrimental to the client. The arbitration will proceed pursuant to UNCITRAL arbitration rules and be seated in London. Damages exceed \$500 million in lost investment costs and lost profits.

- Representing the co-owner of a nuclear power generating facility in the expansion of Plant Vogtle in eastern Georgia. The representation began with the development of contract documents over a decade ago. Represented the client in claims against the project contractors –in federal court with approximately \$1.6 billion in dispute. The litigation arose largely out of regulatory compliance disputes, as well as project delay and cost overruns. The parties ultimately settled the matter favorably for the owners, and the representation now involves counseling towards project completion, currently scheduled for November 2022.
- Representing a European-based world leader in the design and fabrication of high-tech brewing equipment in an ICDR arbitration arising from the construction of a brewery in North Carolina. Claims include allegations that critical in-place equipment in an operating brewery is defective and counter-allegations that brewery operations are themselves the cause of the problems. The ICDR arbitration has been stayed near the conclusion of the discovery phase to allow for the parties to jointly attempt repairs while brewery operations remain ongoing.
- Representing the same client (as EPC contractor) in the development of the \$1.2 billion expansion of the Compañía Cervecería de Coahuila brewery in Piedras Negras, Coahuila, Mexico. When completed, the facility will be the world’s largest brewery and will supply most of the Corona, Modelo, Pacifico, and Victoria beer sold in the U.S. The representation evolved into negotiations of contracts for the expansion of a brewery in the U.S. that will become one of the largest breweries in the world and provide approximately 7 percent of the domestic non-craft beer supply.
- Advising a Mexican foods manufacturer in a design-build agreement for construction of a new \$120 million dairy processing Texas facility. We are also advising the client on contract administration and enforcement.
- Advising an industrial manufacturer on contract administration and dispute resolution related to an approximately \$100 million engineering, procurement, and construction management contract for a chemical manufacturing facility expansion in Blacksburg, SC.
- Representing a Boston-based specialty chemicals and materials company with operations around the world in Louisiana federal court against a Texas-based general contractor. The litigation concerns a 50 megawatt renewable, waste-heat energy project that the client is jointly developing with a Louisiana utility. The client and its co-developer hired the general contractor to perform the necessary construction and assembly services; the litigation arises from delays and performance problems. Claims and counterclaims exceed \$30 million.
- Represented a steel fabrication contractor in claims arising from modifications to the Vehicle Assembly Building (VAB) at NASA’s Kennedy Space Center in Florida. The VAB is the largest single-story building in the world, originally constructed for the Apollo Program, and is now undergoing modifications to support NASA’s next payload system, the Space Launch System (SLS) and the Orion spacecraft. The project was delayed nearly a year due primarily to a significant number of NASA design changes, and claims exceeded \$25 million.
- Represented the owner of three coal-burning power plants in New York federal court with more than \$100 million in a dispute arising from the installation of emissions-control equipment. Litigation spanned two years and involved dozens of fact and expert witnesses. The parties ultimately settled the dispute on the eve of jury selection after the client obtained several favorable rulings on dispositive motions and motions to exclude key experts.

- Represented a U.S. energy company in the preparation and negotiation of EPC contracts for a \$5 billion natural gas pipeline project in the U.S. The engagement involved the negotiation of four construction contracts, with four different contractors, for the nearly \$3 billion Mountaineer Xpress (MXP) natural gas pipeline project in West Virginia. The matter also involved assisting the client with negotiations for other, smaller (but still very significant) pipeline projects, including the \$1.4 billion Leach Xpress project and the \$270 million Gibraltar project.
- Represented a specialized machine tooling company that manufactures highly technical components for the nuclear, aerospace, and defense sectors in Tennessee federal court litigation against a multinational consortium acting as general contractor. The client fabricated and constructed specialized equipment capable of handling and processing radioactive material as part of the development of an approximately \$7 billion nuclear remediation facility at the Savannah River Site in Aiken, SC. The client encountered significant issues as a direct result of inadequate designs, leading to large cost overruns. The client ultimately settled the dispute favorably on the courthouse steps after selection of a jury.

## ***Publications & Presentations***

### ***Publications***

- “COVID-19 Will Have Lasting Impact on Construction Contracts,” *Law360*, July 9, 2020.

### ***Presentations***

- “Integration Multiple Experts into an Overarching Legal Strategy,” Society of Construction Law North America Section, webinar, June 16, 2020.
- “The Coming Wave of COVID-19 Arbitrations – Looking Ahead,” Global Arbitration Review and Lexology, webinar, April 29, 2020.

### ***Education***

- Vanderbilt University (J.D., 2004)
- Auburn University (B.A., 2000)

### ***Admitted to Practice***

- Georgia

### ***Related Services***

Litigation | Commercial | Construction | International Arbitration & Dispute Resolution | Industrials & Manufacturing | Education | A/E/C Industry Investigations and Enforcement Team | Retail | Real Estate Litigation | Commercial Construction | Energy & EPC Matters