

# Mark Guthrie

Shareholder

**Practices:** Construction; Business Litigation; Alternate & Renewable Energy

**Industries:** Higher Education; P3, Infrastructure & Project Finance; Real Estate

Mark's practice includes construction-related transactions and disputes, OSHA investigations and disputes, insurance and reinsurance claims and disputes, trade secret disputes and litigation and arbitration of other complex commercial cases.

Mark has represented prime and general contractors, construction managers, subcontractors, engineers, sureties, developers and governmental and private owners in construction-related bidding and procurement matters, contract negotiation, contract administration, and resolution of disputes.

Mark has negotiated and resolved disputes involving complex construction and architectural/engineering contracts, including EPC contracts for onshore and offshore power, petrochemical, LNG export and refinery facilities, Comprehensive Development and Design Build agreements for government buildings, highway and light rail facilities, and design agreements, private, state and federal construction contracts and subcontracts for civil, marine and dredging works, large public facilities, mixed-use facilities and other commercial and multifamily structures.

Mark has represented clients in construction disputes in jury trials, bench trials and arbitrations involving multimillion dollar claims for breach of contract and warranty, fraud, defective design, construction defect, change order entitlement, liquidated damages, claims for extra time and money, delay, lost productivity and owner interference claims, lien and bond claims, sovereign and governmental immunity issues, and construction-related insurance coverage and claims issues.

Mark's other practice areas include arbitration and litigation of insurance claims and coverage and reinsurance treaty disputes involving property and casualty, general liability, excess, builder's risk and life, and accident and health coverages, environmental disputes, OSHA investigations and disputes, unfair competition and trade secret disputes and real estate disputes.

Mark also has litigated disputes involving licensing, covenants not to compete, federal and state antitrust issues, contract issues, business torts, lender liability, financial institution-related claims and other complex commercial cases, in state and federal courts in many jurisdictions across the nation

Mark is Board Certified in Construction Law by the Texas Board of Legal Specialization. He served as head of the firm's litigation practice for the Houston office from August 1999 through December 2004.

## Representative Experience

- **Contractor Representation:** Represented EPC contractors, design builders, general contractors/construction managers and owners in litigation, arbitration and claims issues in



### Houston Office

713.650.2730 Direct

713.650.2400 Fax

mguthrie@winstead.com

### Education

Baylor Law School

- J.D., 1985
- Member, *Baylor Law Review*, 1984-1985
- Member, Phillip Jessup International Law Society, 1984-1985

Baylor University

- B.B.A., 1983

matters in many state and federal courts across the country involving design and construction of power projects, offshore structures, petrochemical facilities, marine construction, large distribution and commercial facilities, retail buildings, mixed-use facilities, other structures and component equipment and claims under the federal Contract Disputes Act.

- **Public Improvement Contract Litigation:** Represented public hospital authority in litigation over hospital project; represented contractor in settlement of lawsuit to collect contract balance from port authority and defeating the port's claim and unsuccessful appeal of governmental immunity; represented public housing authority in lawsuits against contractor and subcontractors on multifamily projects; evaluated governmental immunity from contractor claims for governmental entity.
- **Cogeneration Plant Litigation:** Assisted EPC contractors in multi-million dollar disputes with developers, project lenders, owners, insurers and subcontractors of cogeneration and other power generating, petrochemical and industrial facilities in Texas, Louisiana, Arkansas, Iowa, Indiana, Connecticut, New Jersey, California and Nevada. These disputes included many aspects of the design, construction, operation and maintenance of and major equipment used in these facilities, as well as construction and design-defect, warranty, cost overrun, extra work, lost productivity, constructive acceleration and delay issues and claims for liquidated damages.
- **Offshore Project Litigation:** Represented contractor in jury trial to collect \$4.5 million amount due for construction of offshore floating production unit, plus attorneys' fees, and collected after suit filed and prior to trial an additional \$19 million due on same contract.
- **Environmental Construction Litigation:** Assisted remediation contractor of Louisiana refinery surge pond in the recovery of \$18 million for extra work on an \$18 million fixed price contract; claims involved analysis of chemical and environmental issues related to the components of sludge existing in the surge pond.
- **Heavy Civil Contract Negotiation/Administration:** Counseled and assisted parties in proposing for, negotiating and administering P3/Comprehensive Development/Design Build Agreements for highway, tol road and light rail projects; assisted contractors and subcontractors with negotiation of highway construction and bridge construction contracts.
- **Petrochemical and Power Contract Negotiation:** Assisted owner of petrochemical complex in negotiating FEED contract and EPC agreements for design and construction of new high density polyethylene unit; assisted construction manager with the drafting and negotiation of a contract to construct an alternative fuel power generation facility; involved on ongoing basis negotiating and drafting numerous EPC contracts and other design, engineering and construction contracts and subcontracts; assisted terminal owner in the drafting and negotiation of FEED and EPC contracts for an liquefied ethylene export facility.
- **Large Project Contract Negotiation:** Assisted developers in the negotiation of design and construction contracts for large hotel and city convention center projects and a mixed-use facility.
- **Public Works Contract Negotiation:** Assisted developer with the drafting and negotiation of an \$80 million construction contract and related architect's agreement for a large jail facility in Houston, Texas; assisted major subcontractor with negotiation of subcontracts for Army Corps of Engineers projects subject to FAR flowdown provisions.
- **Insurance and Reinsurance:** Represented ceding company in arbitration of \$60 million dollar dispute over whether offshore 100% coinsurance transaction was prohibited sale of interest or assignment or delegation of duties under the treaties; represented purchaser of block of business in indemnity reinsurance transaction in arbitration involving breach by seller of representations and warranties in connection with sale; represented ceding company in arbitration against reinsurer involving coverage of reinsurance treaties for claims arising from September 11 attack.

## Professional & Community Service

- Texas Bar Foundation (Fellow)
- State Bar College
- Houston Bar Association (Member, Construction Section, Chair, 2004-2005; Litigation Section)
- State Bar of Texas (Member, Construction and Litigation Sections)
- American Bar Association (Member, ABA Construction Forum and Litigation Sections; Texas State Coordinator, Litigation Section Business Tort Subcommittee, 2002-2012)
- National Association of Workforce Boards (Board Member, 2017-present)

- Texas Association of Workforce Boards (Immediate Past Chair, 2014-2016; Chairman, 2010-2014; Vice Chair 2008-2010; Policy Committee Chair, 2001-present; Board Member, 2000-present)
- Texas Association of Workforce Boards Legislative Advisory Committee (2003-2006)
- Gulf Coast Workforce Development Board (Chairman, 2013-present; Vice-Chairman, 2000-2013; Member, 1997-present; Chairman, Procurement Committee of the Board, 1997-2013, with responsibility for recommending public employment system contracts of \$150 to \$200 million per annum; Member of Executive, Budget, Bylaws, Employer Services and Career Center Committees of the Board)
- Education Industry Subcommittee of Greater Houston Partnership and Gulf Coast Workforce Board, Chairman 2010-present (industry group of Houston area independent school districts focused on increasing teacher quality and other solving other common issues)
- Education Advisory Committee, Greater Houston Partnership (Member, 2013-present)
- Lone Star College Adult Basic Education Advisory Committee (Member, 2013-2015)

## Awards & Recognition

- *Chambers USA Guide to America*, Chambers & Partners Publishing, 2010-2017
- AV Rated, Martindale-Hubbell
- *The Best Lawyers in America*, (BL Rankings, LLC), 2005-2025
- Houston's Top Lawyers, *H Texas*, 2006, 2008, 2010
- Texas Super Lawyers, Thomson Reuters, 2005-2012, 2014-2019, 2021-2024

## Admissions

- Texas, 1985
- Supreme Court of Texas
- U.S. District Court Southern District of Texas
- U.S. District Court Western District of Tennessee
- U.S. Court of Appeals, Fifth and Sixth Circuits
- U.S. Supreme Court