

MVP: King & Spalding's Mike Stenglein

By Emma Kennedy

Law360 (October 10, 2023, 1:08 PM EDT) -- Mike Stenglein of King & Spalding LLP at one point felt the weight of Colombia's economy on his shoulders as he represented oil refinery Reficar in a high-profile international construction dispute, but it was that case — one that yielded a multibillion-dollar award — that earned Stenglein a spot among Law360's 2023 Construction MVPs.

His biggest accomplishment of the year:

Stenglein's 30-year construction law career has seen him litigate in courtrooms all over the country and world, but he told Law360 that it's hard to look beyond the Reficar case as his biggest accomplishment to date.

The team of 65 secured the victory in June, ending the drawn-out battle between Reficar and U.S. contractor CB&I, which had initially charged \$3.2 billion for a refinery expansion in Colombia — the country's biggest construction project in history — but delivered the project two years late with a bill of \$5.9 billion.

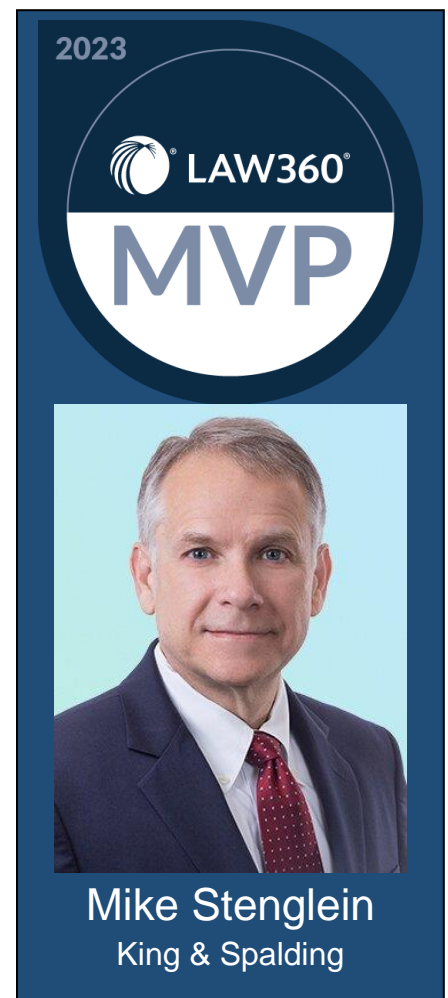
That final amount threatened to topple the local government, according to Stenglein, but ultimately his team secured a \$1.9 billion award and freed multiple Reficar executives who were wrongfully arrested for mismanaging public funds.

"People were placed under house arrest, and this was described as the biggest scandal — or close to the biggest scandal — the country's ever faced," Stenglein said.

"It was emotional for me because I felt the weight of the country. If you worked at Reficar or its parent company, you were on the front page of the newspaper characterized as the bad guy, so to have the award come out and rightfully blame the party that did cause the cost overruns was a huge relief for the folks that worked at Reficar."

The case is one Stenglein expects to set in motion a change in how contracts are drafted and carried out.

"We were trying to find the precedent to cite in the Reficar case, and it didn't really exist, but now we've



created it and it's public," he said. "I think it will change front-end contracting with cost-reimbursable contracts, and it's going to change on the back end how these disputes are governed. No longer can a cost-reimbursable contractor charge whatever they want and get away with it."

Why he's a construction attorney:

As an attorney who started decades ago as a commercial litigator doing contract cases, Stenglein quickly gravitated toward construction law and never went back, essentially viewing such cases as higher-scale, higher-stake breach of contract cases.

With the fundamentals of construction law down pat, he said it's a field that allows adaptability between different forums relatively easily, as much of the underlying concepts and legal argument translate between venues.

"It's really come in handy that I'm not pigeonholed into any one particular location or forum, and I have cases now pending in the international space, in Harris County state court in Houston, Dallas County state court, the Southern District of New York," he said.

"The way I think about it is that I can take my specialty and my expertise, and I can go to any forum in the world and argue for a construction case."

It's also a field experiencing forced adaptation as construction patterns change and emphasize the construction needs of the technology and renewable energy industries, Stenglein says.

"I want our construction group to maintain its roots [in the energy industry], but even a lot of energy companies called themselves tech companies now too because of some of these units have so much technology with carbon capture, hydropower, clean energy, and all these things that are very tech focused and doing data centers and chip facilities, and artificial intelligence is just exploding across the world," he said.

"Recognizing that and moving our team members into getting the subject matter expertise on this is a big thing."

What motivates him:

When Stenglein launched the Austin, Texas, office of King & Spalding in 2008, it was just him, but he says the 47 lawyers that have joined the office since then are the biggest motivator.

"I'm 59, so I'm not going anywhere anytime soon, but I really think a lot about how to train, mentor and create an environment where everybody can have exactly the same success and opportunity that I've had here," he said.

"I don't feel like I've done anything special. I feel like I'm a hard worker and that's always been one of my secret sauces — nobody shows up more prepared for a trial than I do — but I'm trying to create that opportunity for the team I work with and others in the firm, that's really why I do it."

Other notable cases he's worked on:

Stenglein led a team that in April favorably settled a case for Microsoft involving a dispute over the construction of two \$250 million data centers experiencing cost overruns and schedule delays.

The general contractor had brought claims seeking \$28 million in damages for delays, but Stenglein's team brought counterclaims for \$39 million for gross negligence and defective work.

The Microsoft case, and his team's representation of Samsung in drafting and negotiating construction agreements for the development of Samsung Engineering & Construction America Inc.'s \$17 billion semiconductor chip plant in Taylor, Texas, represent even more of the shift into the tech construction space.

"I'm proud of the fact that Samsung hired us to do their \$17 billion semiconductor chip facility," he said.

"I'm not a transactional lawyer, but I've got the right team internally to be able to do all the contracting that's required for a project that big, and so I'm really proud of the strength of the client relationship with Samsung."

--As told to Emma Kennedy

Law360's MVPs of the Year are attorneys who have distinguished themselves from their peers over the past year through high-stakes litigation, record-breaking deals, and complex global matters. A team of Law360 editors selected the 2023 MVP winners after reviewing more than 900 submissions.