

Carlos J. Fernández-Lugo

Capital Member and Chair, Environmental, Energy & Land Use Practice Group

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PRACTICES

Construction Litigation
Energy
Environmental & Land Use Litigation
Environmental Regulation
Environmental, Energy & Land Use
Infrastructure/Public-Private Partnerships
Land Use Regulation
PROMESA Task Force
Retail

BAR ADMISSIONS

- Commonwealth of Puerto Rico
- U.S. District Court District of Puerto Rico
- U.S. Court of Appeals First Circuit

EDUCATION

B.S., *Magna Cum Laude*,
University of Puerto Rico

J.D., *Summa Cum Laude*,
Pontifical Catholic University of
Puerto Rico School of Law

MEMBERSHIPS

- Puerto Rico Bar Association
- Federal Bar Association

Mr. Fernández-Lugo represents clients before local and federal agencies with jurisdiction over environmental, energy and land use matters, such as the U.S. Environmental Protection Agency, the U.S. Army Corps of Engineers, the Environmental Quality Board, the Department of Natural and Environmental Resources, the Solid Waste Management Authority, the Puerto Rico Electric Power Authority, the State Energy Public Policy Office, the Energy Commission, the Puerto Rico Planning Board, the Permits Management Office, and the various autonomous municipalities throughout Puerto Rico.

He provides counseling to clients on greenfield and brownfield development, land use issues, compliance with and interpretation of environmental laws and regulations, the environmental implications of business transactions, siting and permitting of energy facilities, and negotiation of energy contracts, among others. He also advises clients in connection with the development of residential, commercial, industrial, energy and tourism facilities; planning, zoning and permitting matters; and permit challenges before administrative agencies and the courts.

His representation also includes defense in administrative or judicial enforcement proceedings. He has been involved in several complex environmental cases and mass litigation, including multi-party CERCLA cases and the Río Piedras Explosion Litigation. He has also represented clients in cases dealing with spills, toxic torts, soil and groundwater contamination, permit challenges and regulatory violations, among others.

On the energy front, he has acted as environmental counsel for lenders and equity investors in the financing of energy facilities. In addition, he has represented renewable energy developers in the negotiation of power purchase and operating agreements, renewable energy certificate contracts, land agreements and financing related matters, among others, as well as in the land use and environmental impact review process related to the construction of such facilities. His energy experience includes work on coal, natural gas, wind,

- American Bar Association's Energy and Natural Resources Section, Litigation Section
- Puerto Rico College of Engineers and Surveyors

solar, waste to energy, biomass, anaerobic digestion and landfill gas to energy projects.

Mr. Fernández-Lugo participated in the drafting process of Acts 82 and 83 of July 19, 2010, which created the Puerto Rico renewable energy portfolio standard, and the renewable energy incentives regime, respectively. He also worked on the net metering chapter of the Energy Transformation and RELIEF Act, Act 57 of May 27, 2014.

He is ranked as one of Puerto Rico's Leading Attorneys in the Environmental & Energy fields by both the international publication *Chambers & Partners* and by Legal 500. He is also ranked as a leading attorney by Best Lawyers® in its Puerto Rico guide in the Energy Law, the Environmental Law and the Land Use and Zoning Law. This guide has also recognized him as Puerto Rico's Lawyer of the Year in Environmental Law and in Land Use and Zoning Law.

He is frequently invited to participate as speaker or moderator in energy related topics by key associations and industry groups. He is also frequently interviewed and quoted by industry journals and publications.

Prior to joining McConnell Valdés, Mr. Fernández-Lugo served as judicial law clerk to Hon. Carmen Consuelo Cerezo, then-Chief Judge of the United States District Court for the District of Puerto Rico.

Mr. Fernández-Lugo is member of the Board of Directors of the Corporación para la Conservación del Estuario de la Bahía de San Juan, a non-profit organization that designs, implements, and monitors restoration actions to improve the quality of waters and associated ecosystems within the San Juan Bay Estuary system and its watershed.

REPRESENTATIVE CASES

Some of his representative cases include:

- Representation of the plaintiff in a civil action against the operator of a quarry bordering a pharmaceutical facility in connection with illegal dust emissions and a geologically unstable limestone hill. Our client obtained an injunction against the quarry operator.
- Representation of defendant oil company in a toxic tort action filed by the owners of a property allegedly contaminated by storm waters and fuel releases originating from a gas station. The litigation also involved a parallel administrative enforcement action initiated by the Environmental Quality

Board (EQB) in connection with alleged violations to the agency's underground storage tank regulations.

- Represented an oil company defendant in a civil action initiated by the Commonwealth of Puerto Rico in connection with an oil spill at a metropolitan area hospital. A United States Coast Guard investigation preceded the litigation. The government demanded \$2 million dollars in damages and the restoration of natural resources affected by the spill.
- Represented several codefendants in a civil cost recovery and contribution action filed pursuant to the Comprehensive Environmental Response Compensation and Liability Act concerning the \$20 million dollar remediation of the old Juncos landfill. The litigation also involved separate administrative proceedings related to two unilateral administrative orders by the Environmental Protection Agency (EPA).

Representative Matters – Energy

- Represent client before the Puerto Rico Energy Commission in administrative proceedings concerning the first Integrated Resource Plan (“IRP”) being prepared by PREPA.
- Represent client in the development of 101.2 MW wind farm. Our work involved environmental, land use, permitting, real estate, tax exemption, construction and regulatory matters.
- Represent client in the development of 40 MW grid-scale solar photovoltaic project. Our representation involved environmental, land use, permitting, real estate, tax exemption and contractual aspects.
- On behalf of the off-taker, negotiated power purchase agreements for two behind-the-meter solar photovoltaic projects with a capacity of 2.7 MW AC and 3.1 MW AC, respectively, at different manufacturing facilities.
- Represent residential solar client in connection with interconnection, contractual, and regulatory issues before PREPA and the Energy Commission.

Representative Matters – Land Use

- Successfully defended owner of telecommunications tower in permitting challenge filed by neighboring landowners.
- Represented resort developer in connection with the environmental impact statement and land use proceedings related to the project.
- Successfully represented the owner and operator of a landfill in the environmental impact statement and land use proceedings related to the

expansion of the facility.