Ferraiuoli LLC
Looking Forward

María Judith (Nani) Marchand-Sánchez
Capital Member

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María Judith (Nani) Marchand-Sánchez is a Capital Member and one of the founders of Ferraiuoli LLC and has vast experience in employment matters. She has successfully litigated before the Courts of First Instance of Puerto Rico and in the Federal Court, as well as government agencies and administrative forums, including participation in mediation and arbitration proceedings. Ms. Marchand has solid experience litigating disputes in areas such as discrimination, harassment, retaliation, agreements of non-competition, claims of hours and wages, Fair Labor Standards Act (FLSA), sexual harassment, Family Leave Act (FMLA), unjustified termination, among others. Her practice also includes consultancy and advising in matters related to human resources, internal investigations, including labor aspects of corporate acquisitions, mergers and start of operations, confidential information protection and labor audits, among others. Ms. Marchand has also developed expertise in matters regarding the medical cannabis industry and the medical cannabis employee and the workforce. She is also a Professor at Cannaworks Institute, an educational entity authorized by the PR Department of Health to provide training to the workforce of the medical cannabis industry. Nani has also a practice in commercial litigation, particularly within the franchise business model.

Nani has been invited by several professional associations in Puerto Rico to present lectures on sexual harassment, domestic violence in the workplace, progressive disciplinary measures, workplace harassment, medical cannabis and inclusion and diversity issues, the proper documentation and mediation as an alternative to traditional litigation. She has also been invited to participate as a speaker at continuing legal education courses and is a collaborator with Microjuris al Día, PRMedCann.Biz, Cannaworks, Puerto Rico Chamber of Commerce, Puerto Rico Manufacturers Association, and the Society for Human Resources Management - Puerto Rico Chapter.

Nani has been certified by the Puerto Rico Supreme Court as a Mediator and an Arbitrator. She is also affiliated to the American Arbitration Association (AAA) and is a Mediator and Arbitrator in their Employment Law Roster. Since 2012, she has been recognized in Latin America Edition of Chambers & Partners, as a notable practitioner in Labor & Employment matters in Puerto Rico.

Among her representative clients are Doctor's Associates (Subway), Rainbow Apparel Companies, and MMM Holdings, Inc.

Representative Cases or Transactions

- **Angielú Arce v. Rainbow Apparel Company, Civ. No. A1CI201500838, Court of First Instance in Aguadilla:** Obtained the dismissal of the Complaint for wrongful termination after the Court granted a Motion for Summary Judgment.
- **Cannaworks LLC:** Provide legal advice in labor & employment matters in the medical cannabis industry. Have given over 150 presentations regarding medical cannabis and the workforce and the local and Federal regulatory framework. Have acquired considerable expertise in this area and the interplay with protective employment legislation.
- **Eddie Alberto Román v. Doctor's Associates, Inc. d/b/a Subways and Caribbean Franchises, Inc., Case No. 17-1575, United States District Court for the District of Puerto Rico:** Alleged violation of ADA (service animals), filed before the USDC for the Western District of Texas by a customer of one Subway store located in Puerto Rico, owned by our client. We served as liaison with Texas counsel for Doctor's Associates, Inc. in the development of defense strategy. We also engaged in conversations with Plaintiff, which lead to Plaintiff filing a Voluntary Dismissal against Caribbean Franchise. We later appeared as local counsel in Puerto Rico, for counsel from the State of Texas. The case was dismissed.
- **José Manuel Martínez Rivera v. Circo Group LLC, Civ. No. KPE2014-0885, Court of First Instance in San Juan:** Same sex sexual harassment judicial complaint filed against Circo Group LLC, a well-known gay after- hours bar. After the taking of successful depositions and settlement conversations, Claimant filed Voluntary Dismissal of Claim. Circo did not have to pay any consideration in exchange for the dismissal.
- **Julied Rivera-Toll, et. als. v. MMM Holdings, Inc., Civ. No. ISCI2017-00408, Court of First Instance in Mayagüez:** Claim filed by three Plaintiffs alleging unjustified termination. The Court of First Instance granted all three motions for summary judgment. The determination was upheld by the Puerto Rico Court of Appeals and the Puerto Rico Supreme Court.
- **Miguel Suárez Igartúa v. Royal Isabela, Inc., Civ. No. A1CI201700620, Court of First Instance in Aguadilla:** Unjust termination judicial claim filed by former employee. Plaintiff alleged that he was terminated from employment without just cause by reason of his rejection of a new offer of employment modifying certain terms and conditions. The Superior Court agreed with the argument that Plaintiff had the initial burden of proof to establish that he was terminated from employment or in the alternative that he was constructively discharged. At Trial, after Plaintiff's testimony to establish that an involuntary termination of employment or constructive discharge had taken place, Royal Isabela argued a non-suit motion per local Rules of Civil Procedure and the Superior Court issued Judgment dismissing the claim and held that Plaintiff had voluntarily resigned from employment. This case is particularly significant because the ruling regarding that the employer has the initial burden of establishing that an unjust termination has occurred, is a novel matter as a consequence of the adoption of the Puerto Rico Labor Transformation and Flexibility Act (LTFA) in 2017. Also, dismissal via non-suit is not frequently granted in our jurisdiction.
- **Puerto Rico Department of Treasury, November 2017:** The Puerto Rico Department of Treasury in conjunction with the Puerto Rico Association for Certified Public Accountants invited me to train certified public accountants and general public regarding the Disaster Unemployment Insurance. Due to Hurricane María many employers had to terminate employees or reduce working hours. This triggered the Disaster Unemployment Insurance. Four training sessions were provided.
- **Widallys Rivera Quiñones v. The New 5-7-9 and Beyond, Inc., Case No. 15-3133, United States District Court for the District of Puerto Rico:** Our client is a well-known retail company in the women's apparel industry. There were various claims related to some of the Puerto Rico stores which had a potential significant impact on the operations. Claim for alleged violation of the ADA Title III dispositions of architectural barriers in commercial facility were dismissed with prejudice.
- **William Vélez Valdivieso, et. als. V. MMM Holdings LLC, Civ. No. PO2018CV00139, Court of First Instance in Ponce:** Judicial Claim filed by nine former employees, which included a collective action and a class action suit including all employees and former employees of the employer in similar circumstances of the plaintiffs, seeking payment of alleged statutory vacation leave owed. Specifically, plaintiffs argued that their employment classification as outside salespersons exempted them from federal and state wage and hours laws but not from statutory vacation leave per local law. After the Initial Conference was held and before the discovery commenced, MMM Healthcare LLC moved to stay the discovery and filed motion for summary judgment. The Superior Court issued Summary Judgment dismissing the case with prejudice, which was confirmed by the Puerto Rico Court of Appeals. Plaintiffs filed Certiorari before the PR Supreme Court and the matter is now before their consideration. This case is particularly relevant and is being followed very closely by labor practitioners, since the controversy is a long standing one in our jurisdiction and the arguments presented by our firm are novel and groundbreaking.

Public Speaking Engagements

- Speaker, *"La persona Trans y el empleo: una guía para patronos".* This course is approved by the Puerto Rico Supreme Court for CLE 4.5 General Credits [LABO-2022-981(R)]
    - Asociación de Profesionales en Relaciones Laborales (APRL), November 2022
    - Asociación de Derecho Laboral, November 2022
    - Fidelis Talent Solutions, November 2022
    - Colegio de CPA de PR, June 2022
    - Puerto Rico Manufacturers Association (PRMA), June 2022
    - Colegio de Notarios de PR (CNPR), June 2022
    - Federal Bar Association – PR Chapter (FBA-PR), May 2022
- Speaker, *"Cannabis medicinal, tatuajes y "Body Piercings" en el empleo, realidad 2022",* Comité de Patronos de Aguadilla, October 2022
- Speaker, "Prácticas para un entorno laboral inclusivo", SHRM-PR, September 2022
- Speaker, "Desarrollos recientes sobre el Cannabis Medicinal", Federal Bar Association, PR Chapter (FBA-PR), August 2022)
- Speaker, *"'Body Piercings', Tatuajes y Cannabis Medicinal en el 2022: Una Realidad' "*, Colegio CPA PR, June 2022
- Speaker, "Patrono, ¡Sonríe! Te están grabando", Colegio CPA PR, June 2022
- Speaker, *"Cannabis medicinal y el empleo: marco jurídico"*, Puerto Rico Manufacturers Association (PRMA), June 2022
- Speaker, *"Marco legal del cannabis medicinal en el empleo",* Asesores Financieros de PR, May 2022
- Speaker, *"Cannabis medicinal y el empleo: marco jurídico"*, Puerto Rico Manufacturers Association (PRMA), September 2021
- Speaker, *"Marco legal del cannabis medicinal en el empleo, derechos y responsabilidades",* Microjuris Podcast, August 2021. This course is approved by the Puerto Rico Supreme Court for CLE 1.3 General Credits [LABO-2021-880].
- Speaker, *"La vacuna del covid-19 y el empleo: patrono, ¿qué puedes hacer?"*, Coffee Hour, Fidelis Talent Solutions, February 2021
- Speaker, *"Personas con licencia de cannabis medicinal ¿qué pasará con los derechos laborales de las personas autorizadas para utilizar cannabis medicinal?,* Microjuris Podcast, February 2021
- Speaker, *"Acoso laboral: cómo proteger a tu empresa"*, Puerto Rico Manufacturers Association (PRMA), November 2020
- Speaker, *"El acoso laboral: visto desde el lente legal"*, Comité de Patronos de Carolina, Panel Educativo sobre Acoso Laboral: Visto desde el Lente Legal y de Recursos Humanos, October 2020
- Speaker, *"Ley 44, ADA, FMLA y la Salud Mental: cómo conectan en la era digital",* SHRM-PR Annual Conference: Connect: Human Experience to Business in a Digital Era (Virtual Conference), August 2020
- Speaker, *"El nuevo código civil: lo que recursos humanos debe saber",* SHRM-PR, June 2020
- Speaker, *"TPI, TA, TSPR, TDPR, TAPC, TSEUA, EEOC, UAD, OMA, DT, ¿qué debes conocer?,* SHRM-PR, Circuito de Leyes Laborales de Puerto Rico, March 2020
- Speaker, *"Cannabis medicinal, el empleo y los menores de edad"*, Congreso Asociación de Educación Privada de PR, February 2020
- Speaker, *"Cannabis medicinal en el empleo: una realidad":*
    - Comité de Patronos de Humacao, February 2020
    - PR Business Development Corp., October 2019
- Speaker, *"Sinopsis de los últimos desarrollos en la legislación laboral de Puerto Rico"*, Puerto Rico Manufacturers Association (PRMA), August 2019
- Speaker, *"Patrono… ¡Sonríe, te Están Grabando!*, SHRM-PR Annual Convention, August 2019
- Speaker, *"Cannabis medicinal, body piercings y tatuajes en el empleo: una realidad"*. This course is approved by the Puerto Rico Supreme Court for CLE 2.5 General Credits [LABO-2018-643]:
    - Colegio de Notarios de PR, September 2019
    - Puerto Rico Manufacturers Association, May 2019, June 2019 (Health Summit)
    - SHRM-PR, January 2019
- Speaker, *"Medical cannabis, discrimination & the employment"*, Puerto Rico Judicial Academy, May 2019
- Panelist, *"Labor & employment law student outreach event,"* Interamerican University of PR, sponsored by the American Bar Association, April 2019
- Speaker, *"Hostigamiento sexual en el empleo: ¿qué es? ¿dónde estamos?"*, FBA-UPR, January 2019
- Speaker, *"A la vanguardia en la batalla legal",* DOL Employer's Division of Carolina, January 2019
- Speaker, *"The problem is at the C-Suite, what do I do now?,"* SHRM-PR, September 2018, May 2019
- Speaker, *"Cannabis medicinal en el empleo: retos y responsabilidades", "A la vanguardia en la batalla legal"*, SHRM-PR – IGNITE 2017 (Annual Convention), December 2017

- Lecturer, *"Aspectos legales de la fuerza laboral del cannabis medicinal"*, *"Protocolo para la identificación de pacientes y acompañantes de pacientes",* Cannaworks Institute, ongoing since January 2017
- Speaker, *"Realidad 2017: Las políticas empresariales que nunca pensaste necesitabas"*, Department of Labor Employer's Division of Carolina & San Juan, January 2017; Puerto Rico Manufacturers Association (PRMA), February 2017
- Speaker, *"Realidad 2016: Las políticas empresariales que nunca pensaste necesitabas"*, SHRM-PR Annual Convention, September 2016
- Speaker, "*El empleado autorizado a consumir el cannabis medicinal y la ley 80",* Puerto Rico MedCann.Biz, October 2016
- Speaker, *"Mediemos más, litiguemos menos: un nuevo enfoque",* Microjuris, March 2016. This course is approved by the Puerto Rico Supreme Court for CLE 3.0 General Credits [MA-2016-133]
- Speaker, *"Domestic violence in the workplace",* PR Manufacturers Assoc. (PRMA), February 2016
- Speaker, *"El que busca encuentra… ¿qué hago con lo que encuentro?",* SHRM, January 2016
- Speaker, *"Litiguemos menos, mediemos más*," UPR National Association of Law Students (NALS), March 2015
- Lecturer, "*Judicial system & legal terminology module*," Urban Solutions, Inc., 2014-2016
- Speaker, "*La mediación en tu caja de herramientas*," Ferraiuoli LLC Labor & Employment Symposium, November 2014
- Speaker, "*Litiguemos menos, mediemos más: un nuevo enfoque*," Department of Labor of Puerto Rico (Employers Division, Carolina), November 2014
- Speaker, "*Litiguemos menos, mediemos más: un nuevo enfoque*," 41st SHRM-PR Annual Conference, September 2014
- Speaker, "*Alimentos: orden de retención de ingresos en el origen y la responsabilidad patronal,"* 1era Conferencia de Derecho de Familia: Custodia y Alimentos, March 2013

Publications

- *"Inalterado el mandato de vacunación en la Isla"*, El Vocero, January 2022
- *"A pesar del fallo Federal, la vacunación obligatoria en empresas sigue vigente en Puerto Rico"*, Microjuris al Día, January 2022
- *"Ante el triunfo judicial de Biden. Advierten empresas en Puerto Rico deben acatar mandatos de vacunación de OSHA"*, Microjuris al Día, December 2021
- *"¿Qué protección laboral cobija a los pacientes de cannabis medicinal?,* El Nuevo Día, September 2021
- *"Anticipan litigios por vacunación obligatoria"*, Microjuris al Día, July 2021
- *"6 Consejos (para patronos) sobre cannabis medicinal"*, Microjuris al Día, May 2021
- *"Protecciones laborales para pacientes autorizados a utilizar cannabis medicinal"*, Microjuris al Día, February 2021
- *"Excepciones para no vacunarse contra el COVID-19, si un patrono lo exige"*, Microjuris al Día, January 2021
- *"¿Tienen derecho las madres o padres a saber si maestros o cuidadores están vacunados?,* Microjuris al Día, January 2021
- *"Serán permanentes miles de cesantías temporeras provocadas por la pandemia"*, El Nuevo Día, September 2020
- *"La salud mental en el empleo"*, El Nuevo Día, July 2020
- *"Patronos buscan alternativas / Tras la orden de cierre de negocios por el COVID-19, las empresas pueden pagar con cargo a licencias, si el empleado acepta"*, El Nuevo Día, March 2020
- *"Vital la regulación del "smartphone" en el empleo",* El Vocero de Puerto Rico, July 2019
- *"Smartphones en el trabajo",* El Nuevo Día, June 2019
- *"Patrono: ¡SONRÍA! sus empleados lo están grabando",* El Nuevo Día, June 2019
- *"Desventaja laboral para pacientes de cannabis medicinal",* El Vocero de Puerto Rico, April 2019
- *"Determinante la gestión ante el acoso sexual en el empleo",* El Vocero de Puerto Rico, September 2018
- *"Labor's silence on medical cannabis fuels uncertainty in the workplace"*, Caribbean Business PR, April 2017
- *"Incierta la protección a empleados que usan cannabis medicinal"*, Caribbean Business PR (Spanish), April 2017
- *"Aclara dudas sobre el manejo de cannabis medicinal en el empleo"*, Primera Hora, April 2017
- *"A lidiar con el cannabis medicinal en el trabajo"*, El Nuevo Día, April 2017
- *"Políticas empresariales que nunca pensaste que necesitabas"*, El Nuevo Día, Empleos, July 2016
- *"Desmitificar el cannabis medicinal en el empleo"*, Microjuris al Día, November 2016
- *"Tratamiento del paciente de cannabis medicinal en el lugar de empleo"*, Microjuris al Día, October 2016
- *"Enmiendas flexibilizan los requisitos para uso y disponibilidad del cannabis medicinal",* Microjuris al Día, September 2016
- *"Mediemos más, litiguemos menos: Un nuevo enfoque"*, Microjuris al Día, April 2016
- *"Ban the Box": ¿Alguna vez has sido declarado culpable de un delito?*, Microjuris al Día, November 2015
- *"Mediación Laboral*", El Nuevo Día, April 2015
- "*Rol del abogado en la mediación*", Microjuris al Día, March 2015

- *"Mediación Laboral*", Microjuris al Día, February 2015
- "*Es un Mediador, no es un Juez*", Microjuris al Día, February 2015
- *"¿Qué es la mediación?*", Microjuris al Día, January 2015
- "*Consideremos los métodos alternos de resolución de disputas*", Microjuris al Día, January 2015
- Recurso Online; *"Mediación … El arte más apacible – mediemos más, litiguemos menos",* December 2014
- *"Mediation: A new approach to reducing litigation costs,"* www.ferraiuoli.com, August 2014

Practice Areas

Commercial Litigation Labor & Employment Law
Employment Litigation & Dispute Resolution
Preventative Consulting & Compliance

Education

University of Puerto Rico, J.D.
Trinity College, B.S. in Political Sciences
Certified by the Puerto Rico Supreme Court as a Mediator Certified by the Puerto Rico Supreme Court as an Arbitrator Certified by Fidelis Talent Solutions, LLC, as a Professional Coach
Harvard Law School-Executive Program, Program on Negotiation

Bar Admissions

Commonwealth of Puerto Rico
United States District Court for the District of Puerto Rico
United States Court of Appeals for the First Circuit Supreme Court of the United States

Affiliations

Arbitrator and Mediator - American Arbitration Association (AAA)
Puerto Rico Chamber of Commerce
Society for Human Resources Management - Puerto Rico Chapter (SHRM-PR)
Puerto Rico Manufacturers Association, Human Resources Committee (PRMA)

Professional Recognition

Since 2012, Nani has been recognized in Latin America Edition of Chambers & Partners as notable practitioner in Labor and Employment matters in Puerto Rico.

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