



## **December Case Law Update December 31, 2017**

### **A summary of Wisconsin court opinions decided during the month of December related to planning**

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### ***Wisconsin Supreme Court Opinions***

[No planning-related cases to report.]

### ***Wisconsin Court of Appeals Opinions***

#### **Forest Croplands Taxes Barred by Tribal Sovereign Immunity**

[Wisconsin Department of Natural Resources v. Timber and Wood Products Located in Sawyer County](#), involved an action by the Wisconsin Department of Natural Resources (DNR) related to land owned by the Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin (the Lac Courte Oreilles). The land had been enrolled in Wisconsin's Forest Croplands Law. The enrollment period ended and the Lac Courte Oreilles did not enroll the land in the Managed Forest program that replaced the Forest Croplands program. DNR then attempted to collect a termination tax from the Lac Courte Oreilles. The Lac Courte Oreilles refused to pay asserting its sovereign immunity barred the DNR's claims. As sovereign nations, the Lac Courte Oreilles and other tribes cannot be sued unless by the tribe waives its sovereign immunity or the U.S. Congress abrogates tribal sovereign immunity. The Lac Courte Oreilles refused to pay the termination tax and the DNR brought this lawsuit. In its decision, the Wisconsin Court of Appeals agreed that the suit to collect the termination tax was barred by the Lac Courte Oreilles' immunity from suit as a sovereign power.

[The Court's opinion provides background information on the Forest Croplands Law and the Managed Forest Law and a summary of federal law related to the sovereign immunity of the tribal nations for those APA-WI members who might be interested in these issues.]

### ***U.S. Court of Appeals for the 7<sup>th</sup> Circuit Opinions***

[No planning-related cases to report.]