



Portfolio Media, Inc. | 860 Broadway, 6th Floor | New York, NY 10003 | www.law360.com
Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

Wis. Tribe Pushes To Keep Gaming Fight With DOI In DC

By **Maya Rajamani**

Law360, New York (June 5, 2015, 6:26 PM ET) -- A Wisconsin tribe that sued the U.S. Department of the Interior for rejecting an amendment to its state gaming compact pushed Thursday to keep the case in Washington federal court, saying the government hadn't proven Wisconsin was a better venue.

The Forest County Potawatomi Community rejected the government's argument that the Eastern District of Wisconsin had experience with similar cases and said Washington was a more suitable venue for the case because the issues at hand have national relevance.

"This case involves questions of national importance and the federal defendants fail to demonstrate that the legal questions at issue in this lawsuit turn on some fact or law that is unique to Wisconsin or are related to any case pending in the Eastern District," the tribe said. "The federal defendants argue the relevant venue factors are neutral, except for the local interest factors, when they are not."

The tribe sued the federal government in January, accusing the DOI of improperly **rejecting an amendment** to the tribe's gaming compact with the state of Wisconsin that would have allowed the tribe to be compensated for lost revenue from its Milwaukee casino.

They claimed they lost revenue as a result of a competing casino that was **slated** to be built by the Menominee Indian Tribe of Wisconsin in nearby Kenosha, which was rejected by Wisconsin Gov. Scott Walker after he determined the deal would burden taxpayers.

In a motion filed in May, the government **argued** that a Wisconsin venue would be better suited to address the "significant issues of local controversy" raised in the litigation. Specifically, the Eastern District of Wisconsin has experience dealing with both the Potawatomi and Menominee tribes' efforts to obtain off-reservation gaming in both Milwaukee and Kenosha.

They also argued Wisconsin would be more appropriate because the tribe was located there, and that there was no reason to file the suit in Washington.

The Potawatomi tribe challenged the government's argument that the Eastern District of Wisconsin has experience with the issues the case deals with, saying the district did not have any such experience and that the case would not require the court to decide whether any off-reservation casino should or should not be approved.

The tribe said the actions the defendants listed also took place in Washington, not Wisconsin, with

the exception of litigation the Menominee tribe filed in 2008 and 2009 after the Interior Department rejected its application to have land taken into trust for a casino. The issues in that case aren't relevant to the current suit, the Potawatomi tribe said.

The tribe argued that because all the officials and their records are in Washington, it would be a more convenient venue than Wisconsin.

The motion to oppose transfer also said the tribe frequently travels to Washington and has many contacts there, and that the capital is the most common meeting place for tribal government officials and many other federally recognized Indian tribes.

In addition, Washington would be more appropriate because the case involves questions of national importance, the tribe said.

"This case involves questions of national importance and the federal defendants fail to demonstrate that the legal questions at issue in this lawsuit turn on some fact or law that is unique to Wisconsin or are related to any case pending in the Eastern District,"

The DOI rejected the Potawatomi tribe's proposed gaming compact amendment when the Kenosha project was still in the works, after concluding that it violated the Indian Gaming Regulatory Act because it obligated the Menominee tribe to compensate the Potawatomi tribe for lost revenue resulting from the Kenosha casino, according to the government's brief.

But in its suit, the Potawatomi tribe said that the amendment is "carefully crafted" to not impose any contractual duty on the Menominee.

Forest County Potawatomi Community is represented by Scott Crowell of Crowell Law Office-Tribal Advocacy Group, David Bernhardt and Ryan A. Smith of Brownstein Hyatt Farber Shreck LLP and Jeffrey A. Crawford, attorney general of the Forest County Potawatomi Community Legal Department.

The government is represented by John C. Cruden and Jody H. Schwarz of the U.S. Department of Justice and Andrew S. Caulum of the Office of the Solicitor – Div. of Indian Affairs, U.S. Department of the Interior.

The case is Forest County Potawatomi Community v. United States Of America et al, case number 1:15-cv-00105, in the U.S. District Court for the District of Columbia.

--Additional reporting by Caroline Simson. Editing by John Quinn.

All Content © 2003-2015, Portfolio Media, Inc.