



## GLLF CASES & PARTIES

The following cases advance our top priority of reining in the ever-expanding administrative state by eliminating agency implicit authorities, ending judicial deference to agency interpretations of law, and invalidating unpromulgated rules masquerading as guidance or bulletins.

***Clean Wisconsin***—High Capacity Well Permits ([2018AP0059](#))  
Act 21 Explicit Authority Case before the Wisconsin Supreme Court

GLLF represents eight Wisconsin business associations as intervenors in this case now before the Wisconsin Supreme Court. We [filed a brief](#) in support of legislative intervention on June 19, 2019 with [a reply brief](#) following July 9th. If granted intervention, the legislature would join us in support of those businesses who had lawfully granted the high capacity well permits invalidated by a Dane County Circuit Court. ([More](#))

1. Wisconsin Manufacturers & Commerce
2. Dairy Business Association
3. Midwest Food Products Association
4. Wisconsin Potato & Vegetable Growers Association
5. Wisconsin Cheese Makers Association
6. Wisconsin Farm Bureau Federation
7. Wisconsin Paper Council
8. Wisconsin Corn Growers Association

***Kinnard Farms***—CAFO Permits ([2016AP1688](#))  
Act 21 Explicit Authority Case before the Wisconsin Supreme Court

[GLLF's amicus brief](#) on behalf of six business associations focused on the Act 21 explicit authority issues relating to the permit conditions. We argue that the term “explicit authority” in 2011 Act 21 was purposefully chosen by the legislature to prohibit ad hoc regulatory mandates such as an animal unit limit. ([More](#))

1. Wisconsin Manufacturers & Commerce
2. Dairy Business Association
3. Midwest Food Products Association
4. Wisconsin Potato & Vegetable Growers Association
5. Wisconsin Cheese Makers Association
6. Wisconsin Farm Bureau Federation
7. Wisconsin Dairy Alliance

***Kathleen Papa v. DHS***—Rulemaking Avoidance ([2017AP634](#))

Act 21 Authority & Unlawful Guidance Case before the Wisconsin Supreme Court

On March 9, 2020, GLLF filed an [amicus brief](#) on behalf of six Wisconsin business associations before the Wisconsin Supreme Court arguing that Wisconsin Department of Health Services’ Medicaid auditing and claw-back policies were invalid and unenforceable because they were not duly promulgated under the Wisconsin Administrative Procedure Act. ([More](#))

1. Wisconsin Manufacturers & Commerce
2. Midwest Food Products Association
3. Wisconsin Farm Bureau Federation
4. Wisconsin Dairy Alliance
5. Outdoor Advertising Association of Wisconsin
6. Wisconsin Paper Council

***Wisconsin Legislature v. Palm***—COVID-19 Authority ([2020AP765](#))

Act 21 Explicit Authority & Emergency Rulemaking Avoidance

On April 29, 2020, GLLF filed [an amicus brief](#) with the Wisconsin Supreme Court on behalf of Wisconsin business associations supporting the Legislature in the case relating to agency authorities during the coronavirus challenge. On May 13, 2020, the Wisconsin Supreme Court [ruled in favor of the Wisconsin Legislature](#), holding the Department of Health Services’ emergency orders were rules and must be promulgated using emergency rulemaking. ([More](#))

1. Wisconsin Manufactures & Commerce
2. Wisconsin Dairy Alliance

***Lamar Central Outdoor***—Rulemaking Avoidance ([2017AP1823](#))

Agency Rulemaking Avoidance & the “Error-Correcting Exception”

GLLF’s [amicus brief](#) on behalf of business associations focuses on the Court of Appeals District IV’s (Madison) fictitious “error-correcting exception” to Chapter 227 rulemaking procedures. On December 19, 2019, the Wisconsin Supreme Court [ruled in favor of Lamar](#), overturning the Wisconsin Court of Appeals, and declaring a win for the regulated community. ([More](#))

1. Wisconsin Manufacturers & Commerce
2. Midwest Food Products Association
3. Outdoor Advertising Association of Wisconsin
4. Wisconsin Cheese Makers Association
5. Wisconsin Dairy Alliance

***Tetra Tech v. DOR***—Agency Deference ([2015AP2019](#))  
Ending the Practice of Judicial Deference to Agency Interpretation of Law

In July 2017, GLLF filed an [amicus brief](#) on behalf of business associations urging the Court to reject the current practice of deferring to an agency’s interpretation of the law. The [Wisconsin Supreme Court held](#) that agencies will no longer be granted deference on any interpretations of law. ([More](#))

1. Wisconsin Manufacturers & Commerce, Inc.
2. Midwest Food Products Association
3. Metropolitan Milwaukee Association of Commerce
4. Wisconsin Bankers Association
5. Wisconsin Cheese Makers Association
6. Wisconsin Paper Council
7. Dairy Business Association, Inc.
8. Associated Builders and Contractors, Inc. (Wisconsin Chapter)
9. Wisconsin Potato and Vegetable Growers Association
10. Wisconsin Farm Bureau Federation
11. Wisconsin Corn Growers Association

***New Chester Dairy v. DNR***—High Capacity Well Permits  
Act 21 Explicit Authority

This case was closed with [Outagamie County Circuit Court holding](#) Act 21’s explicit authority requirement eliminates implied agency authorities. GLLF participated as an intervenor in this case. ([More](#))

1. Wisconsin Manufacturers & Commerce
2. Dairy Business Association
3. Midwest Food Products Association
4. Wisconsin Potato & Vegetable Growers Association

***Rock-Koshkonong Lake District v. DNR***—Public Trust Doctrine ([2008AP001523](#))

In 2013, the Wisconsin Supreme Court ruled that DNR inappropriately relied on the public trust doctrine for its authority to protect non-navigable land and non-navigable water above the ordinary high water mark when it refused the petition to raise the waters of Lake Koshkonong. GLFF filed [an amicus brief](#) in this case. ([More](#))

1. Wisconsin Manufacturers & Commerce
2. Midwest Food Products Association