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State's suit seeks rock's return

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Feb. 5--ASHLAND -- The state of Kentucky claims in a federal lawsuit it is "the sole and rightful owner" of the historic boulder known as Indian Head Rock, which was excavated from the bottom of the Ohio River in 2007, and demands the city of Portsmouth return it to the commonwealth.

Kentucky Attorney General Jack Conway filed a civil suit Tuesday in U.S. District Court in Ashland against the city; Greg Bauer, its former mayor; Steven R. Shaffer, the Ironton historian who led the expedition to remove the rock; and David G. Vetter of Portsmouth, a member of the dive team that raised the boulder.

In addition to the return of the boulder, the suit seeks monetary damages "in an amount not presently ascertainable," but in excess of \$75,000.

Allison Martin, a spokesman for Conway's office, said the state opted to file the lawsuit after officials were unable to negotiate a settlement to have the rock brought back to Kentucky.

"We hoped we could work this out in a settlement that was suitable to both sides and bring the rock back to Kentucky, but we weren't able to do so," she said.

Conway had proposed a settlement in November that would have avoided the federal lawsuit. It called for the rock's return to Kentucky so it could be put on display. Conway also wanted a public apology and for the city of Portsmouth to pay attorneys' fees and build a display on the Kentucky side of the river. The deadline for Portsmouth to agree to the settlement was Feb. 1, Martin said.

Indian Head Rock was once a navigation marker and an attraction for local residents, who would walk out into the river and carve their initials on it when the water was low. However, the boulder had remained mostly submerged since the 1920s.

The rock, which was registered as a historical object in 1987, bears the initials of some of Portsmouth's earliest settlers, along with a crude carving that resembles a face.

After it was floated to the water's surface by a team of rescue divers and removed with a crane, the rock was taken to the Portsmouth City Garage, where it remains today.

Conway claims in the lawsuit that the defendants "acted willfully, wantonly ... and with a conscious disregard of the rights of Kentucky" when they took the rock out of the river.

The suit also claims the defendants violated a state law prohibiting the disturbance of an archaeological site or the removal of an object of antiquity without a permit from the University of Kentucky Department of Anthropology.

The defendants destroyed much of the rock's usefulness "for archaeological and research purposes" and also "potentially endangered" the boulder "by removing it from the protective waters of the Ohio River," the suit alleges.

The state also claims in the lawsuit Shaffer and Vetter took the rock at the direction of Bauer, who was recalled as Portsmouth's mayor in 2004.

Bauer told an Associated Press reporter he was unaware of the lawsuit and denied any involvement in the matter.

"For me to be named, this action took place probably a couple years after I was in office, it just doesn't quite make sense to me," he said.

Martin, the attorney general's spokeswoman, said Wednesday that she could not comment on any of the specifics of the lawsuit.

Shaffer, 51, and Vetter, 54, both are facing felony charges in Greenup Circuit Court in connection with the rock's removal. Both are charged with illegally removing an object of antiquity, a Class D felony, and could be sentenced to up to five years in prison if they are convicted. Shaffer's trial is scheduled for Aug. 3.