

The Daily Independent (Ashland, Kentucky)

Distributed by McClatchy-Tribune Business News

February 25, 2010 Thursday

Trial date set for civil suit involving rock

BYLINE: Kenneth Hart, The Daily Independent, Ashland, Ky.

SECTION: STATE AND REGIONAL NEWS

LENGTH: 438 words

Feb. 25--ASHLAND -- A trial date has been set for a federal civil suit involving a disputed rock that was removed from the Ohio River in 2007 by a dive team.

The case will go to trial May 11 in U.S. District Court in Ashland before Senior Judge Henry R. Wilhoit Jr., according to an order entered earlier this month.

Wilhoit also scheduled a final pretrial conference in the case for 10 a.m. April 26.

The suit, filed in February 2009 by Kentucky Attorney General Jack Conway, seeks the return of the boulder to Kentucky, along with punitive damages and attorney fees. Defendants in the case are Steven R. Shaffer, who led the expedition to remove the rock; David Vetter, one of the divers; the city of Portsmouth and Gregory A. Bauer, its former mayor.

Shaffer was charged with a felony in connection with the rock's removal, but that charge was dismissed in July after Greenup Commonwealth's Attorney Cliff Duvall said he would be unable to prove that the rock Shaffer and his cohorts raised from the bottom of the river near South Shore was the same Indian Head Rock that was registered with the University of Kentucky as a protected antiquity in 1985.

According Duvall, who moved to dismiss the state charge against Shaffer, there have been several rocks in the river that have been dubbed "Indian Head Rock" or "Indian Rock" and confusion exists as to which is the "official" one.

The rock that was floated to the surface of the water by the dive team is inscribed with numerous names and initials dated in the mid-1800s, along with a crude etching that resembles a face. The appearance of the rock doesn't square with the description of the one registered with UK by a man named James Swauger, Duvall said.

Following the dismissal of the felony case, Shaffer's attorney, Michael Curtis, argued that the civil suit should be dismissed for the same reason the state charge was. However, Wilhoit ordered the discovery process to continue.

After it was raised to the surface and towed to the Portsmouth boat ramp, the boulder was pulled from the water by a crane and taken to the Portsmouth City Garage, where it remains today.