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alum Rob Roy Smith '97

The summer 2004 issue of the *Lewis & Clark College Chronicle* included a story about **Rob Roy Smith** and his efforts to assist American Indians in their legal struggle to protect ancestral rights.

The article, titled "Ancient Remains Trigger a Modern Court Battle," describes Smith's work on the "Kennewick Man" federal court case—helping to defend the right of Native Americans to secure ownership of the remains of a 9,200-year-old male discovered eight years ago along the shores of the Columbia River, near Kennewick, Wash.

According to Smith, the case began in 1996 when a group of scientists sued the United States to block the return of the remains to four local Indian tribes who, believing the bones to be those of an ancestor, claimed ownership of them under the 1990 federal Native American Graves Protection and Repatriation Act (NAG-PRA). He explains that the case has special significance because it is the first to consider the protections afforded for Indians remains under the act and notes, "Every issue is one that has never been litigated before."

Smith began working on the case in 2000, representing, first, the Nez Perce Indian Tribe and, most recently, the Colville Confederated Tribes. He argued the case on the tribes' behalf, in June 2001, before U.S. Magistrate John Jelderks in Oregon District Court; and, in September 2003, before a three-judge panel from the Ninth Circuit Federal Court of Appeals in

Portland. As it turned out, both courts ruled in favor of the scientists, stating that the evidence did not support an earlier determination by the federal government that the Kennewick Man was of Native American descent. Denied a request for a rehearing last April from the full court, the claimants had the option of appealing the case to the U.S. Supreme Court or returning to the Oregon District Court.

According to Smith, the tribes decided to appear before Judge Jelderks to negotiate the scope of the anthropological studies and seek return of the bones for reburial, at the conclusion of the research.

Smith began his legal career as a staff attorney for the Nez Perce, a 3,300-member tribe based in Idaho; during this time, he focused his practice on Indian gaming, taxation, natural resources and cultural resource protection. Since November 2002, he has been employed as an associate attorney with the Seattle, Wash., firm Morisset, Schlosser, Jozwiak & McGaw, which practices federal Indian law—representing Indian tribes and organizations throughout the country.

Smith is passionate about his career choice. "Every day I find myself on the cutting edge of legal issues ranging from cultural and natural resource protection to tax and employment law," he says. "And few things are more rewarding than knowing that I am fighting for the rights, beliefs and needs of an underserved segment of our society."



Following graduation from Holy Cross, Smith attended the Northwestern School of Law of Lewis & Clark College in Portland, Ore., graduating in 2000 with a *juris doctor cum laude* and a certificate in environmental and natural resources law. In 2000, he was a recipient of the school's Natural Resources Leadership Award and a member of the Cornelius Honor Society.

Noting that the Kennewick Man case has changed the landscape of cultural resource protection law, Smith reflects on its immediate and long-term significance. "I think it has raised awareness of the hurdles that Indian tribes encounter when they seek to protect their ancestors' remains and artifacts from unchecked scientific exploitation," he observes. "I hope that, in the future, other tribes will face less of a battle to protect their cultural resources because of the sacrifices that these Pacific Northwest tribes have made."