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DETAILS 2A

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IHS 'Tattler' case goes to fed court

Control over student paper at issue

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A case involving school censorship of a student newspaper in the Ithaca City School District is moving ahead with an appeal in federal court, plaintiffs announced.

Former student editors at the Ithaca High School Tattler sued the school district in 2005 for exercising prior restraint over the paper's content after it published negative editorials about then-principal Joe Wilson.

"This meant a lot to me when I was in high school," said former Tattler editor

Robert Ochshorn, lead plaintiff in the case. "I hope that the free press can be inspiring to students and that it can be used as a tool for journalists to learn about how the press works and about events around them, and I hope that school papers are not reduced to PR tools for paranoid districts and administrators."

In a ruling issued Jan. 26, U.S. District Judge Norman A. Mordue rebuffed ICSD efforts to dismiss the lawsuit, permitting eight former editors of the Tattler to continue the First Amendment case.

Though Mordue dismissed



OCHSHORN

three of five causes of action presented by the Tattler editors, two others have been held in abeyance while the first three are appealed in the U.S. Second Circuit Court. However, Mordue did determine that restrictions placed on the paper after the critical editorials on Joe Wilson appeared were unconstitutional.

Ochshorn said the restrictions placed on the paper in 2005 included demands from

administrators that they review pages before they go to print and that they have access to lists of story ideas before work began on them.

These restrictions changed the newspaper from a "Tinkler" paper to a "Hazelwood" paper.

See TATTLER Page 4A

ON THE WEB

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TATTLER

CONTINUED FROM PAGE 1A

A Tinker paper is a publication relatively exempt from

school censorship. Tinker refers to the U.S. Supreme Court's decision in *Tinker v. Des Moines* (1969), in which the court found that students do not check their Constitutional rights at the school-

house door, and preserved the right to free speech in independent publications.

A Hazelwood paper refers to a publication that can be censored at will by school administrators under the U.S. Supreme Court's decision in *Hazelwood v. Kuhlmeier* (1988), in which the court determined that the content of student publications produced as part of a school's curriculum could be controlled by the school.

Ithaca lawyer Ray Schlather, who is representing the Tattler editors, said the two main issues in the case are the question of whether the guidelines im-

posed by ICSD are constitutional, and whether the publication is a limited public forum, as in the Hazelwood case, or an open forum in which students are entitled to full constitutional protection and are only subject to limitations imposed on other open forum publications, such as restrictions on libelous material.

Since the paper is more than 100 years old, has a circulation about twice the size of the school, and is not part of the pedagogy of the school, it is an open forum free from control of the district administration, Schlather said.

The case has drawn the at-

tention of the Student Press Law Center in Washington, D.C., and journalism schools across the country, he added.

The appeal could be argued in the Second Circuit Court in New York City as soon as late spring or early summer, he said.