

DTH lawsuit lingers on

Evans Witt
Former DTH Editor

One might say that this has been the year of the lawsuit for The Daily Tar Heel.

Four Chapel Hill students filed a civil action in Greensboro Federal District Court on July 26, 1972, to begin the first and perhaps the most significant battle ever over the method of funding the DTH. Robert Arrington, David Boone, Rob Grady and Gray Miller began the legal proceedings by charging that the current method of a portion of the student fee that all students pay going to the DTH violates their constitutional rights.

Now, nine months later, much has transpired in the lawsuit but even more has not even been discussed in the Federal Court building where the case will eventually be decided.

The two major developments in the lawsuit through the year have been the intervention of the DTH Editor as a defendant in the action (and the establishment of the DTH Legal Defense Fund to pay for that defense) and the appellate court decision in a related case involving the North Carolina Central University's student newspaper.

In mid-September, then-DTH Editor Evans Witt, after consultation with both legal authorities and those involved with the DTH, decided to ask to become a defendant in the suit. Robert W. Spearman, son of Journalism School Professor Walter Spearman, former UNC-CH student body president, Rhodes Scholar and member of the Raleigh law firm of Sanford, Cannon, Adams and McCullough, was retained to represent the DTH in the suit.

To pay the costs of the defense, the DTH Legal Defense Fund was established in early October. Contributions have been made to the fund by students, faculty, alumni, former DTH staff members and present DTH staffers in order to help protect the continued existence of the paper.

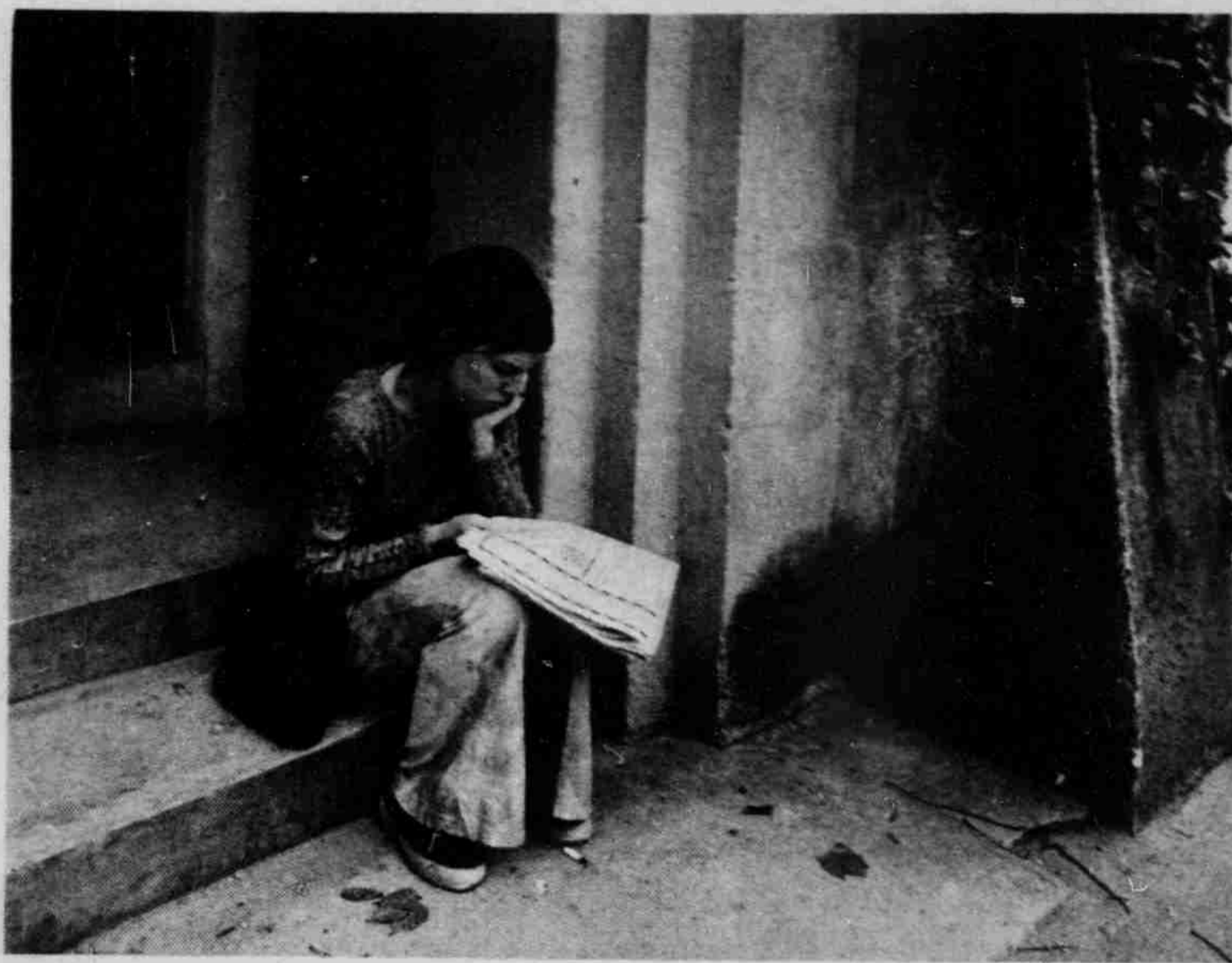
Early this April, present DTH Editor Susan Miller replaced Witt as a defendant in the lawsuit.

The second major development related to the DTH suit came in mid-April when the U.S. Fourth Circuit Court of Appeals handed down its decision in a lawsuit involving the Campus Echo, the student newspaper at NCCU in Durham.

Albert Whiting, NCCU president, had closed the student paper in the fall of 1972, because the paper advocated maintaining NCCU as a primarily black institution. The students went to Federal Court to overturn the president's decision. Judge Eugene Gordon (who is also hearing the DTH) ruled, however, that no state university could support a newspaper, student or otherwise.

The Appellate court did not agree; the higher court declared that university officials cannot censor a student paper unless there is a substantial disruption of the educational process. But the appellate court specifically refused to decide whether or not the mandatory student fee, or any part thereof, supporting a student newspaper was constitutional. But the court did observe that First Amendment mandates protection of freedom of speech and of the press while it forbids state action in the establishment of religion.

But the plaintiffs in the DTH lawsuit argue that forcing them to support a newspaper which takes editorial positions they do not agree with abridges their freedom of speech and political association. Further, the plaintiffs claim that the DTH and its Editor are agents of



The mind-bending DTH crossword puzzle is an integral part of many students daily routine.

the state of North Carolina and are thus restricted from certain types of advocacy and action by state law and the constitution.

The University asserts in opposition that a university must have wide latitude in establishing forums for exchange of ideas and cannot be held responsible for

the ideas expressed in such forms.

The DTH has taken the position that student fees are a tax levied by the students on themselves to support those activities their representatives through the Campus Governing Council (formerly Student Legislature) decided are justified. Also, the DTH Editor is elected by the

students and can be recalled by the students at any time, precluding the possibility that any orthodoxy or authoritarian selection of view is imposed on the students on campus.

The actions thus far in the lawsuit have been an extremely costly and entangled set of discovery procedures designed to establish the facts in the case. The plaintiffs have filed several lengthy sets of questions and demands for information from the defendants, some of which have not yet been answered.

The next major action in the suit will be a hearing on this portion of the suit, with the defendant asking to be relieved from answering some of the questions asked by the plaintiffs because they are irrelevant, too complicated, or easily available to the plaintiffs themselves.

Apparently the DTH lawsuit which formed such a major effort for the DTH this year will still be around next fall to continue to sap the time and resources of the Editorial Board the the Editor.

Editor's note — The DTH Legal Defense Fund was set up to pay for the defense of the intervening defendant, the editor of the paper, who acts as the representative of the Daily Tar Heel.

The Fund presently has a \$1300 deficit . . . and the case has hardly begun.

Contributions are desperately needed to insure the continued publication of the paper. No gift is too small.

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