

Calamos Fee Suit, With 12b-1 Claim, Moves Forward

By Beagan Wilcox Volz, *Ignites*, March 31, 2016 [subscription required]

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Calamos has lost its bid to quash claims that it charged excessive advisory and distribution fees to investors in its Growth Fund that two plaintiffs leveled against the firm in early 2015.

A federal court in New York on Monday [denied](#) the firm's June 2015 motion to dismiss the case.

In the latest round of lawsuits that focus on differences between advisory and subadvisory fees, it appears to be the first case where a claim of excessive 12b-1 fees has not gotten tossed at this stage, says Mark Holland, partner at **Goodwin Procter**.

While plaintiffs in a similar case against The Hartford included allegations of excessive 12b-1 fees in their 2011 complaint, those claims were dismissed in 2012, essentially for technical reasons, as previously reported.

An excessive-fee case against **Pimco** also contains a claim of excessive distribution fees that cleared the motion-to-dismiss hurdle, but that suit does not involve subadvisory fees.

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This week's decision in the Calamos case may spur other plaintiffs to file claims involving 12b-1 fees, says Niels Holch, executive director of the **Coalition of Mutual Fund Investors**. Holch is tracking the cases against about 20 managers that are based on discrepancies between advisory and subadvisory fees and related services.

Other firms that are fighting such cases include **Axa Equitable, BlackRock, Davis, First Eagle, Great-West, Harbor, John Hancock, J.P. Morgan, New York Life Investment Management, Principal, Russell, SEI, State Farm** and **Voya**.

The case against Axa is the first of this crop to go to trial, and the firm is now in its final stages in New Jersey federal court. The Hartford may be the next firm to face off with plaintiffs at trial, based on a court ruling from earlier this month.

While a number of these cases include claims of excessive administrative fees, allegations of 12b-1 fees that are too high are rare, Holch notes.