

Davis Targeted Again for Management Fees

By Emile Hallez, [Ignites](#), September 23, 2014 [subscription required]

A second excessive-fee suit levied against Davis Selected Advisers has been recently combined with a prior suit involving the \$20 billion New York Venture Fund.

The newest case follows the success that plaintiffs in lawsuits against companies including Principal Management, **Hartford** and Axa have had in surviving motions to dismiss, and it is indicative of more litigation to come, one observer says.

The plaintiffs in the now-combined lawsuit against Davis had separately alleged that the firm overcharged investors in its New York Venture Fund. The plaintiffs argue that the firm collected lower management fees for a similar, if not identical, investment strategy used in funds it subadvised.

Davis also faces [another excessive-fee suit](#) involving the same fund, which was filed against the firm in 2008 in the U.S. District Court of Arizona. That case was dismissed in 2011 but is now before the U.S. Court of Appeals.

The New York Venture Fund had fees nearly twice as high as some subadvisory fees on outside funds that the firm subadvised, such as the Columbia Variable Portfolio Davis New York Venture Fund, which charged 25 bps at the \$1 billion breakpoint, according to the lawsuit.

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That discrepancy highlights the lack of arm's-length negotiation that fund boards have with their own managers, says Niels Holch, executive director of the Coalition of Mutual Fund Investors. When a fund board hires a subadvisor, fee negotiations are more competitive, he notes.

“It’s not a competitive environment that these fund managers operate in. When fund complexes decide that they want to have an external manager ... that [hiring process] is a true arm’s-length, competitive negotiation,” he says. “The investors are not expecting you to stay with a certain fund family.”

The difference between management fees and subadvisory fees a firm might charge for a similar investment strategy can be substantial, he adds.

“Fifteen basis points may not sound like much, but it’s a whole lot when you apply it to \$20 billion in assets under management,” he says.

There are currently at least five active cases in U.S. district court that involve management fees paid to subadvisors, though it is likely that more will be filed in the near future, he says. Several cases have survived motions to dismiss since 2012 and have either entered the discovery phase or are now headed toward trial, he says.

“This has encouraged the plaintiff’s bar to bring more cases,” he says.

Unknown is whether the fund firms that have been sued are outliers when it comes to typical industry practices in setting management fees, Holch says.