

Supreme Court may weigh in on iShares case

ETF investors say BlackRock keeps too much of the proceeds from securities-lending business

By Trevor Hunnicutt *Investment News January 9, 2015 - 1:02 pm EST*

The Supreme Court has been asked to consider a case involving claims that BlackRock Inc. retains too much of what it makes for lending securities held by its exchange-traded funds.

Two clients of the [popular](#) iShares ETFs recently petitioned the high court to review a previously dismissed case that claims the lucrative securities-lending business operated by the funds enriches the world's largest money manager at the expense of its clients.

“This case involves issues of great importance to investors,” wrote the clients, pension plans for two local labor unions, the Laborers' Local 265 Pension Fund and the Plumbers and Pipefitters Local No. 572 Pension Fund. “The amount of overcompensation through this mechanism is vast, wrongfully depriving investors in BlackRock's ... funds of billions of dollars annually.”

The lawsuit is just one of many in recent years focused on the fees that fund managers charge investors. Other companies targeted by suits include Principal Management Corp., Ameriprise Financial, Oakmark Funds, American Funds, Hartford Investment Financial Services, Axa Equitable Life Insurance Co. and ING Investments, according to records collected by The **Coalition of Mutual Fund Investors**, a shareholder advocacy group.

“We are pleased with the previous decision by the District Court to dismiss the case and the Sixth Circuit’s decision to affirm the dismissal,” said BlackRock spokeswoman Tara McDonnell, in a statement. “We continue to believe the case is without merit.”

Securities lending can be a lucrative activity for fund managers, who will sell their securities to investors, such as hedge funds, that may want to short a stock, for instance. Fund managers often use the proceeds of securities lending to boost returns.

The pension funds said a BlackRock subsidiary charged iShares fund investors a fee “disproportionately” larger than the industry norm for acting as a middleman between the funds and the institutions borrowing the securities. Those fees come at the expense of investor returns, they argued.

The claims were originally dismissed by a federal judge in 2013, and then by an appellate court last September. The latter said the case could not move forward, in part because the securities-lending arrangement was approved by the Securities and Exchange Commission and because there was no legal basis for challenging the fees.

But the pension funds said other appellate courts have found that investors in other cases can bring similar lawsuits.