

Funds take loss in court

The high court says investors can sue over adviser fees.

Times staff and wires

WASHINGTON — The Supreme Court opened the door Tuesday for investors in the \$11 trillion mutual fund industry to sue if they learn their fund's advisers charged exorbitant fees.

But the justices made it hard for plaintiffs to win such claims and warned judges against "second-guessing" independent boards of directors.



It was lawyer Guy Burns' biggest case to date.

The mixed result came in one of this term's most closely watched business cases — one that involved a Tampa lawyer making the first appearance of his career before the justices when he helped argue on behalf of investors in the fall.

The lawyer, Guy Burns, said it will be up to his legal team to return to a lower court and have the original case heard.

"We were happy about the result," Burns said. "We felt that the court needed to give some better guidance to judges when hearing these cases."

The 9-0 ruling revived a lawsuit against Harris Associates, the Chicago investment advisers for the Oakmark funds. The suit contended the advisers were violating a federal duty of trust to individual investors by charging fees twice as high as those paid by pension funds.

But a federal judge and the U.S. Court of Appeals in Chicago had thrown out the suit on the grounds that those fees were disclosed to the board and therefore appropriate.

The Supreme Court set aside that decision Tuesday and sent the case back.

But the high court devoted most of its opinion to explaining why these decisions should be left to the mutual fund boards. The law relies "largely upon independent director watchdogs to protect shareholder interests," said Justice Samuel A. Alito Jr.

Burns said he disagrees with that deference.

"The more robust the review and approval process is for the boards, the more the court may be inclined to refer to it," he said.

Times staff writer Robbyn Mitchell and McClatchy-Tribune contributed to this report.