# SUPREME COURT OF CANADA

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## Case in Brief: *SS&C Technologies Canada Corp. v. Bank of New York Mellon Corp.*

**Judgment of July 31, 2026 | On appeal from the Court of Appeal for Ontario**
**Neutral citation: 2026 SCC 29**

**The Supreme Court of Canada clarifies the rules that apply when a party destroys or hides relevant evidence during litigation.**

SS&C is a Canadian company that provides market pricing data to financial institutions so they can set a sale price for their stocks and bonds. In 1999, SS&C entered into agreements to provide data to the Bank of New York Mellon and to a related company called CIBC Mellon. In its agreement, the Bank agreed to not share the data with other companies, even those related to it.

In 2011, CIBC Mellon said it no longer required SS&C's services and ended its agreement. In 2016, SS&C discovered that CIBC Mellon had been receiving data from the Bank of New York Mellon for free although SS&C and CIBC Mellon no longer had an agreement. SS&C asked the Bank to preserve information showing how the data had been redistributed, to whom, and how much the Bank had earned from it. The Bank refused to do so. SS&C ended its agreement with the Bank and then sued it.

The judge found that the Bank had violated the agreement and awarded SS&C money to compensate. The Court of Appeal agreed that the agreement was violated and concluded that the Bank was wrong not to keep the relevant information. However, it did not change the amount of money awarded by the first judge. Because it disagreed with that amount, SS&C appealed to the Supreme Court of Canada.

The Supreme Court allowed the appeal.

**When a party destroys or hides relevant evidence, courts must presume that it was unfavourable to that party.**

Writing for a unanimous Court, Justices Côté and Moreau agreed with the Court of Appeal that the Bank committed spoliation. Spoliation occurs when a party intentionally destroys, changes, hides or fails to keep relevant evidence to influence the outcome of a lawsuit.

Justices Côté and Moreau explained that spoliation undermines a court's ability to determine the truth and threatens the fairness of the judicial process. Once spoliation is established, courts must presume that the missing evidence would have been unfavourable to the party responsible for destroying it. Courts have discretion to determine what the best remedy is to make up for the missing evidence.

In this case, Justices Côté and Moreau concluded that the trial judge's presumptions were not unfavourable enough to the Bank to properly make up for the missing evidence. As a result, the trial judge's calculation of the monetary damages did not sufficiently compensate for the Bank's spoliation. Justices Côté and Moreau therefore set aside the monetary damages and returned the matter to the trial court for a new calculation of damages.

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**Breakdown of the decision:** ***Unanimous***: Justices Côté and Moreau allowed the appeal (Chief Justice Wagner and Justices Karakatsanis, Rowe, Martin, Kasirer, Jamal and O'Bonsawin agreed)

**More information:** Decision | Case information

**Lower court rulings:** Application (Ontario Superior Court of Justice) | Application (Ontario Superior Court of Justice) | Appeal (Court of Appeal for Ontario)

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