



Case in Brief: **MediaQMI inc. v. Kamel**

Judgment of May 28, 2021 | On appeal from the Court of Appeal of Quebec
Neutral citation: 2021 SCC 23

The Supreme Court rules a Quebec media company may not access court documents that had been filed, and then removed, from a civil lawsuit once proceedings ended.

This case involves the company MediaQMI Inc., which publishes the Journal de Montréal newspaper. The news outlet wanted to publish details about a case involving Mr. Magdi Kamel and his former employer, the Centre intégré universitaire de santé et de services sociaux de l'Ouest-de-l'Île-de-Montréal (CIUSSS). The CIUSSS had sued its former manager, Mr. Kamel, claiming he had misappropriated approximately \$400,000 of its money by channeling it into four different bank accounts over several years. It also asked the court to issue an order to learn who owned the four bank accounts. Among the documents the CIUSSS filed with the court to support its case was a forensic accounting report. The Quebec Superior Court agreed to order the identification of the bank account holder or holders. It also ordered the entire court record be sealed.

MediaQMI subsequently asked the Quebec Superior Court to unseal the documents so it could access the court record and its exhibits. However, before a judge could decide that issue, the CIUSSS dropped the lawsuit. As such, there was no trial, and both the CIUSSS and Mr. Kamel sought to retrieve documents from the court record. Yet MediaQMI objected to the CIUSSS's efforts to remove its exhibits. The Quebec Superior Court judge who ruled on the matter ordered the unsealing of the court records, but said that because the lawsuit had ended, the parties could retrieve their exhibits and shield them from the public. MediaQMI appealed to the Quebec Court of Appeal and lost. It then appealed to the Supreme Court of Canada.

Does the public still have access to exhibits once parties have retrieved them from the court record?

The main question for the Supreme Court was whether the public can still have access to exhibits in court records once a lawsuit has ended and the parties have removed their exhibits from the court record.

In Quebec, the *Code of Civil Procedure* gives any member of the public the right to access court records. The *Code of Civil Procedure* also contains a provision dealing with the removal of exhibits filed in a court record. During proceedings, parties may withdraw their exhibits if all of them consent. Once the proceedings have ended, parties have one year to retrieve their exhibits. If they do not, the exhibits may be destroyed.

The majority of the judges of the Supreme Court of Canada has upheld the finding of the Court of Appeal. They said that once parties retrieve their exhibits at the end of a proceeding, members of the public may continue to consult court records, but will no longer have access to exhibits that have been removed.

The Supreme Court also emphasized that the general rule is that court proceedings and records are open and public.

Breakdown of the decision: **Majority:** Justice Suzanne [Côté](#) dismissed the appeal (Justices [Abella](#), [Moldaver](#), [Karakatsanis](#) and [Brown](#) agreed) | **Dissenting:** Chief Justice Richard [Wagner](#) and Justice Nicholas [Kasirer](#) would have allowed the appeal; they noted that the Superior Court judge should have considered that MediaQMI's request for access to the exhibits came before the lawsuit was dropped, and emphasized the fundamental principle of public access to court records (Justices [Rowe](#) and [Martin](#) agreed)

More information (case # 38755): [Decision](#) | [Case information](#) | [Webcast of hearing](#)

Lower court rulings: (only in French) [judgment](#) (Quebec Superior Court) | [appeal](#) (Quebec Court of Appeal)
