



Case in Brief: **Salomon v. Matte-Thompson**

Judgment of February 28, 2019 | On appeal from the Court of Appeal of Quebec
Neutral citation: 2019 SCC 14

A lawyer who repeatedly recommended that his clients invest money in funds promoted by his friend's firm was responsible for the clients' losses when it turned out to be a Ponzi scheme, the Supreme Court has ruled.

People hire lawyers to help them make important decisions. They have to be able to trust them. That means trusting they are capable, careful, and will act in the client's interests, not anyone else's. To help guarantee this trust, lawyers have certain ethical and professional duties. In Quebec, two of these are the “duty to advise” and the “duty of loyalty.”

The duty to advise means several things. It means the lawyer has to tell the client all the relevant facts. They have to explain the possible consequences of an action. And they have to recommend what the client should do. How far this duty goes depends on a few things. These include the client's experience and knowledge, the reason the lawyer was hired, and what expertise the lawyer says they have. The duty of loyalty means the lawyer has to be loyal to the client. Lawyers can't put themselves in situations where things they want might go against things their clients want.

Mr. Salomon was a lawyer. He had been the lawyer for some of the Thompsons' businesses for many years. In 2003, Ms. Matte-Thompson asked him for advice. Mr. Thompson had died and left her money in trust. She wanted to live off the interest only and save the rest for the children. Mr. Salomon introduced Ms. Matte-Thompson to his personal friend, Mr. Papadopoulos, and recommended the services of his firm, Triglobal Capital Management. He said investing in one of the funds promoted by Mr. Papadopoulos's firm would help Ms. Matte-Thompson achieve her goals.

With Mr. Salomon's encouragement, Ms. Matte-Thompson and the company she owned invested with Triglobal and kept their investments there. Over the years, they invested over \$7.5 million in two funds. In 2006, Ms. Matte-Thompson told Mr. Salomon she was worried about the investments. He reassured her and told her to keep investing. He also told Mr. Papadopoulos to reassure her. In 2007, Mr. Papadopoulos and his business partner disappeared with almost \$100 million. This included over \$5 million invested by Ms. Matte-Thompson and her company. Later, Ms. Matte-Thompson found out Mr. Papadopoulos had paid Mr. Salomon almost \$40,000 during the years he advised her and her company.

In 2008, Ms. Matte-Thompson and her company sued Mr. Salomon and his law firm. She said Mr. Salomon had failed in his duty to advise. This was because he recommended, endorsed, and encouraged inappropriate investments. She also said he disregarded his duty of loyalty. This was because he put himself in a conflict of interest, which caused him to ignore the risks.

The trial judge said Mr. Papadopoulos and his partner were responsible for the losses. But she said Mr. Salomon was not. The Court of Appeal said the trial judge made important mistakes. It said Mr. Salomon was responsible, and reversed the trial judge's decision.

The majority at the Supreme Court said the Court of Appeal was right to intervene. The trial judge failed to look at Mr. Salomon's actions as a whole from 2003 to 2007. It agreed with the Court of Appeal that Mr. Salomon failed in his duty to advise Ms. Matte-Thompson and her company. This was because he encouraged Ms. Matte-Thompson to invest and keep her money (and the company's money) in the funds over many years, even though they didn't meet her goals. He never looked into the funds he was recommending, but kept telling her the investments were safe. The majority agreed that Ms. Matte-Thompson would have never invested in Triglobal funds if Mr. Salomon hadn't failed in his duty to advise. It also agreed that Mr. Salomon disregarded his duty of loyalty. His friendship and investments with Mr. Papadopoulos put him in a conflict of interest. He even told Mr. Papadopoulos about Ms. Matte-Thompson's private fears and concerns. Mr. Papadopoulos also paid Mr. Salomon while he was advising Ms. Matte-Thompson and her company. It was wrong for him to advise them in this situation.

This case was about what lawyers are responsible for when they go beyond just referring clients to another professional. The decision doesn't mean lawyers take on more risk recommending someone now than they did before. Lawyers can refer their clients to others. They just have to follow their professional and ethical duties when they do so.

Breakdown of the Decision: *Majority:* Justice Clément [Gascon](#) dismissed the appeal (Chief Justice [Wagner](#) and Justices [Abella](#), [Moldaver](#), [Karakatsanis](#), [Brown](#), [Rowe](#), and [Martin](#) agreed) | *Dissenting:* Justice Suzanne [Côté](#) was of the view that the trial judge made no significant mistake and that the Court of Appeal wrongly reviewed the evidence and reversed the trial judge’s decision; she would have allowed the appeal

More information (case # 37537): [Decision](#) | [Case information](#) | [Webcast of hearing](#)

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