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Court File No.: T-2506-14

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| F | FEDERAL COURT | D E P O S E |
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| E | Dec 8, 2014 | |
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| Linda Laberge | | |
| Vancouver, BC | | -/- |

Court File No.

FEDERAL COURT

BETWEEN:

ANIZ ALANI

Applicant

and

THE PRIME MINISTER OF CANADA and
THE GOVERNOR GENERAL OF CANADA

Respondents

NOTICE OF APPLICATION

TO THE RESPONDENTS:

A PROCEEDING HAS BEEN COMMENCED by the applicant. The relief claimed by the applicant appears on the following page.


THIS APPLICATION will be heard by the Court at a time and place to be fixed by the Judicial Administrator. Unless the Court orders otherwise, the place of hearing will be as requested by the applicant. The applicant requests that this application be heard at the Federal Court in Vancouver, British Columbia.

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or a solicitor acting for you must prepare a notice of appearance in Form 305 prescribed by the *Federal Courts Rules* and serve it on the applicant's solicitor, or where the applicant is self-represented, on the applicant, WITHIN 10 DAYS after being served with this notice of application.

Copies of the *Federal Courts Rules* information concerning the local offices of the Court and other necessary information may be obtained on request to the Administrator of this Court at Ottawa (telephone 613-992-4238) or at any local office.

IF YOU FAIL TO OPPOSE THIS APPLICATION, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

Date:

Issued by: 
(Registry Officer)

LINDA LABERGE
REGISTRY OFFICER

Address of local office: Federal Court
Courts Administration Service
P.O. Box 11065, 3rd Floor
701 West Georgia Street
Vancouver, BC V7Y 1B6

TO:

THE PRIME MINISTER OF CANADA
80 Wellington Street
Ottawa, ON K1A 0A2

THE GOVERNOR GENERAL OF CANADA
1 Sussex Drive
Ottawa, ON K1A 0A1

ATTORNEY GENERAL OF CANADA
284 Wellington St.
Ottawa, ON K1A 0H8

DEPARTMENT OF JUSTICE CANADA
British Columbia Regional Office
900 - 840 Howe Street
Vancouver, British Columbia
V6Z 2S9

APPLICATION

THIS IS AN APPLICATION FOR JUDICIAL REVIEW in respect of the decision of the Prime Minister, as communicated publicly on December 4, 2014, not to advise the Governor General to summon fit and qualified Persons to fill existing Vacancies in the Senate.

THE APPLICANT makes application for:

1) A declaration that:

a) the Prime Minister of Canada must advise the Governor General to summon a qualified Person to the Senate within a reasonable time after a Vacancy happens in the Senate.

b) the deliberate failure to advise the Governor General to summon a fit and qualified Person to fill a Vacancy in the Senate within a reasonable time after the Vacancy happens

i) is contrary to section 32 of the *Constitution Act, 1867*;

ii) is contrary to section 22 of the *Constitution Act, 1867*

(1) to the extent the Vacancies when considered in the aggregate deny a province or territory of the proportion of regional representation set out in section 22 of the *Constitution Act, 1867*, and

(2) to the extent that a Vacancy deprives a province or territory of the minimum number of representatives in the Senate set out in section 22 of the *Constitution Act, 1867*;

iii) undermines and breaches the principles of

(1) federalism,

(2) democracy,

- (3) constitutionalism,
- (4) the rule of law, and
- (5) the protection of minorities,

and underlying constitutional imperatives, as enunciated by the Supreme Court of Canada in *the Quebec Secession Reference*; and

- iv) is unlawful absent an amendment to the Constitution of Canada according to the constitutional formula as set out in section 41 of the *Constitution Act, 1982*;
- 2) An Order for costs of this application on a basis that this Honourable Court deems just; and
- 3) Such further or other relief as this Honourable Court deems just.

THE GROUNDS for the application are:

- 1) Section 32 of the *Constitution Act, 1867* provides:

“When a Vacancy happens in the Senate by Resignation, Death, or otherwise, the Governor General shall by Summons to a fit and qualified person fill the Vacancy.”

- 2) Section 21 of the *Constitution Act, 1867* provides that “[t]he Senate shall, subject to the Provisions of this Act, consist of One Hundred and five Members, who shall be styled Senators.”
- 3) There are currently 16 Vacancies in the Senate.
- 4) By constitutional convention, appointments to the Senate are made on the advice of the Prime Minister.
- 5) The Prime Minister’s decision not to recommend appointments to the Senate to fill the Vacancies reflects an impermissible attempt to make changes to the Senate

without undertaking the constitutional reforms required in light of the amending formula set out in the *Constitution Act, 1982* as interpreted by the Supreme Court of Canada in the *Senate Reform Reference*.

- 6) Such further and other grounds as the applicant may identify and this Honourable Court may consider.

THIS APPLICATION will be supported by the following material:

- 1) The record before the Prime Minister of Canada in determining when, if at all, to fill each of the currently existing Vacancies in the Senate; and
- 2) Such further and other material as the applicant may advise and this Honourable Court may allow.

THE APPLICANT REQUESTS the Prime Minister of Canada to send a certified copy of the record of all materials placed before and considered by the Prime Minister of Canada in making the decision not to advise the Governor General to fill the currently existing Vacancies to the applicant and to the Registry.

Dated at Vancouver, British Columbia this 8th day of December, 2014.



ANIZ ALANI, on his own behalf

E-Mail: senate.vacancies@anizalani.com