

**FEDERAL COURT**

**BETWEEN:**

**Aniz ALANI**

**Applicant**

**and**

**THE PRIME MINISTER OF CANADA and  
THE GOVERNOR GENERAL OF CANADA**

**Respondents**

**NOTICE OF MOTION**

TAKE NOTICE THAT the Respondents will make a motion to the Court on a special hearing date to be set by the Judicial Administration pursuant to Rule 35(2)(b) as it is likely to be lengthy. The estimated duration of the motion is ½ day (up to 4 hours) and the Respondents request that it be heard in Vancouver, British Columbia..

THE MOTION IS FOR the following relief:

- (a) an order striking out the Applicant's notice of application;
- (b) an order dismissing the Applicant's application;
- (c) costs of this motion payable by the Applicant to the Respondents fixed in the amount of \$1,000.00; or
- (d) such further and other relief as the Court deems just.

THE GROUNDS FOR THE MOTION ARE:

- (a) the Applicant has sought judicial review of an alleged “decision” of the Prime Minister “not to advise the Governor General to summon fit and qualified Persons to fill existing Vacancies in the Senate”;
- (b) in the context of this judicial review, the Applicant seeks declaratory relief to the effect that 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”, and that the alleged “deliberate failure” to do so is unlawful;
- (c) as the Applicant properly concedes in his notice of application, advice by the Prime Minister regarding appointments to the Senate is a matter of constitutional convention;
- (d) the Applicant’s application is fundamentally flawed because it constitutes a request to a Court to legally enforce a constitutional convention, a matter that is not justiciable;
- (e) in addition, because the Prime Minister is not a “federal board, commission or other tribunal” as defined by s. 2 of the *Federal Courts Act* when he provides advice to the Governor General regarding Senate appointments, the Federal Court has no jurisdiction to conduct judicial review in respect of such advice;
- (f) accordingly, the Applicant’s application for judicial review is so clearly improper as to be bereft of any possibility of success, and therefore deserves to be struck out and dismissed summarily by means of a preliminary motion;
- (g) the *Federal Courts Act*, in particular ss. 2, 18 and 18.1;
- (h) the *Federal Courts Rules*, in particular Rules 3, 4 and 221;
- (i) such further and other grounds as the Respondents may suggest and which may be accepted by the Court.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

(a) None.

Date: January 15, 2015



William F. Pentney, Q.C.

Deputy Attorney General of Canada

Per: **Jan Brongers**

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TO: **Aniz Alani**



Applicant