

Najib's lawyer waiting for reply from WSJ

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Hafiz Yatim

Lawyer Mohd Hafarizam Harun said he is awaiting a 'yes' or 'no' reply from lawyers representing The Wall Street Journal on whether they would be invoking the Speech Act for their defence.

The Securing the Protection of our Enduring and Established Constitutional Heritage (Speech) Act is a statutory federal law in the United States that makes foreign libel judgments unenforceable by the US courts.

Hafarizam said he has advised his client, Prime Minister Najib Abdul Razak, to defer the possible filing of the suit against the newspaper until there is a reply on this issue.

"We have written to WSJ's lawyers, one or two weeks ago, to give a 'yes' or 'no' reply to our query," he said.

"We need to know whether they want to use the Speech Act, so as to clear ourselves from a standpoint as we are dealing with a foreign company and to lay the basic foundation to the case."

Hafarizam said the lawyer appointed by WSJ in Singapore informed him that since his firm did not disclose any cause of its action, they too did not want to disclose their possible defences.

Explaining further, Hafarizam said the Speech Act is not a defence to a defamation claim.

"It is actually a preliminary question I am asking the defendant's lawyer, which is whether they would use the US Speech Act if I do file the case," he said, since the US law could be used to defeat the enforcement of any foreign libel judgment.

"It is not the defence of fair comment, qualified privilege or justification, like in any Defamation Act. I am asking that, if I do proceed, will you not use this Speech Act? I have asked them to give a 'yes' or 'no' answer as their previous answer is neither here nor there," he added.

Hafarizam (photo) said until this situation was made clear, he has advised his client to defer in filing the suit against WSJ.

WSJ had in July published two reports alleging US\$700 million was deposited into Najib's personal accounts in AmIslamic Bank from 1MDB, and following that the PM had sought clarification of the report.

WSJ publishers Dow Jones & Company, replied that it will not waive any defences in facing

any legal challenge by Najib. WSJ did not specify what these defences are.

"We have sent another letter in response and have confirmed that we will not be waiving any of our defences. We continue to stand behind our fair and accurate reporting of this evolving story," a Dow Jones spokesperson said.

WSJ reported, among others, that Najib received US\$700 million (RM2.6 billion at that time) in his personal bank accounts. Najib said the money is a political donation but did not specify the source.

The Malaysian Anti-Corruption Commission, which is carrying an on-going investigation into the matter, said the funds came from a Middle Eastern donor.

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