

**Najib's and Ling's lawyers argue if PM's suit can be struck out**  
**MalaysiaKini.com**  
**Sept 29<sup>th</sup>, 2016**  
**Hafiz Yatim**

Lawyers for former MCA president Dr Ling Liong Sik and Prime Minister Najib Abdul Razak argued at the Kuala Lumpur High Court today whether Najib has the legal standing to initiate his defamation suit against the former transport minister.

Ling's lawyers, led by Ranjit Singh, argued in the application to strike out Najib's suit that the plaintiff was suing in his official capacity, and not in his personal capacity, as the former MCA president's call for Najib to resign, was referring to Najib as the prime minister.

A person especially a politician cannot sue in their official capacity as ruled in the Derbyshire case. And recently, Pahang Menteri Besar Adnan Yaakob's suit against *Utusan Malaysia*, was dismissed by the Court of Appeal as if found Adnan was suing in his [official capacity](#).

“The argument is whether the Najib was suing in his official capacity as PM or whether he was suing in his personal capacity,” said Ranjit.

“If you look at the statement of claim and the article, Ling agreed with (former premier) Dr Mahathir Mohamad's opinion when asked by a reporter, that Najib should resign as PM. That is one indication that Najib is suing as PM and not in his personal capacity,” he said.

Ranjit said if one were to look at Najib's statement of claim, everywhere Najib says his reputation as PM is affected and he is a leader of BN.

“We rely heavily on the *Utusan* case (where Adnan sued the Umno daily but lost),” he told reporters.

Justice Nor Bee Ariffin will deliver her decision sometime in November as she heard submissions on the issue in chambers.

## 'Attack is personal in nature'

Meanwhile Najib's lawyer Mohd Hafarizam Harun told reporters after the proceeding that what Ling said was a personal attack against his client, and hence the Derbyshire principle did not apply.

He said it could not be applied in a vacuum.

“If we look at the statement of claim, is it a personal attack on Najib's personal capacity, or on him being the leader of the country who manages the country's administration. We draw the distinction between this case and the Adnan versus *Utusan* case,” he said.

Hence the premier has the right to sue in his personal capacity and the imputation of the words said by Ling is personal in nature, and is an attack on Najib, but not in his official capacity, otherwise, the attorney-general would be representing Najib, he pointed out.

Hafarizam added that after the court delivered the decision in this matter, it would then hear the submission on Najib's application to strike out certain portions of Ling's defence.

Najib had sued Ling, who was a former transport minister, last October for his [remarks](#) that Najib had allegedly taken public funds, when calling on the prime minister to resign.

Najib who is seeking general, aggravated and exemplary damages, complained that the words Ling uttered meant he had abused his powers, was not qualified to be the leader of a government, was involved in a scandalous or financial conspiracy, and was not fit to be the BN chairperson.

Ling in his defence and counter-claim questioned why Najib had singled him out with the suit, when he should have also taken action against past and present Umno leaders who criticised him.

In the Adnan vs *Utusan* case, Court of Appeal judge Idrus Harun ruled that politicians and public officers [can be criticised](#) and that they cannot sue in their personal capacity as there are other laws to deal with that.

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