

Najib to defer suing WSJ until clear reply on US law, says lawyer
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By Jennifer Gomez

Datuk Seri Najib Razak's lawyer will advise the prime minister to defer filing action against The Wall Street Journal until the newspaper clearly states whether it will be using a US law that protects American companies from court rulings outside the country.

Datuk Hafarizam Harun today said WSJ's Singapore-based lawyers had replied to him, but did not give a definitive answer whether they would be using the Speech Act.

"It is still a question of the Speech Act. Until and unless WSJ is prepared to give a clear and definitive answer that they will not cite the Speech Act when we start the action, I am inclined to advise my client to defer the filing until we get that answer," he told reporters at the Kuala Lumpur Courts Complex in Jalan Duta.

Hafarizam had said Najib would not sue WSJ which broke the news in July about RM2.6 billion channelled to the prime minister's personal bank accounts, if the newspaper and its publisher resorting to invoking the Speech Act.

Hafarizam said WSJ's lawyers had responded to him but their reply was hinged on that they would not disclose their possible defences since Najib's side had not stated the course of action to be taken.

He said that he had written again to WSJ's lawyers seeking a definitive answer, and pointed out that the Speech Act was not a defence to a defamation claim.

"I'm asking a preliminary question to the lawyer, whether if I do file, will they use the act to defeat the enforcement.

"So it is not a defence of fair comment or justification, or qualified privilege in any defamation act, it is actually a fundamental question that, if I do proceed, will you not use the Speech Act to defeat the enforcement of judgement," he said.

He agreed that usually lawyers would not disclose their strategy, but said in this case, WSJ was a foreign company and he needed a clear standpoint from their legal team.

"I agree that we don't disclose our strategy but at least I need to clear the basic foundation of my claim.

"That is why I am seeking a reply on the issue of the Speech Act because their answer so far is neither here nor there," he added.

Najib gave instructions to sue WSJ in early August after the Malaysian Anti-Corruption Commission said the RM2.6 billion money came from donors, and not from 1MDB.

In late July, WSJ refused to respond to a request from Najib's lawyers for a clarification as to whether the paper's report on the money in Najib's accounts meant that they were accusing Najib of misappropriation.

The publisher instead said it stood by the report dated July 2, and a subsequent opinion piece published on July 6, which said it was clear and based on documents sourced from Malaysian investigators. – October 27, 2015.

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