

The Plaintiff's cause of action arises from the words or statements contained in the statement of claim filed by the Defendants against the Plaintiff in the case of Kuala Lumpur High Court (Civil Division) Suit No S3-22-604-2007.

It is trite and settled law that statements made in the course of judicial or quasi judicial proceedings are considered to be occasions of absolute privilege. (Refer to ***Wong Cham Mew v Hong Leong Finance Bhd*** [1998] 2 MLJ 195) The principle is also extended to statements contained in affidavits. (refer to ***Faridah Begum bt Abdullah v Sultan Haji Ahmad Shah Al Mustain Billah Ibni Almarhum Sultan Abu Bakar Ri'ayatuddin Al Mu'Adzam Shah*** [1969] 1 MLJ 617).

A wider interpretation of occasions of absolute privilege is given in the case of ***Lincolns v Daniels*** [1962] 1 QB 237 where it refers to the second categories of absolute privilege where it covers everything from the "*inception of the proceedings onwards and extends to all pleadings and other documents brought into existence for the purpose of the proceedings and starting with the writ or other documents which institutes the proceedings.*"

Therefore, this would include a Writ and Statement of Claim which has been filed but not sealed yet. However it is in the normal course of events that a Writ and Statement of Claim would be subsequently sealed after it is filed with the court's registry. Hence once it is filed the statements therein is covered by absolute privilege.

From the above, the Plaintiff does not have a cause of action against the Defendant. The application by the Defendant in Enclosure 8 is allowed with costs.

Datin Zabariah Mohd Yusof
Tarikh 10.7.2009

Bagi Pihak Plaintiff : Encik Joseph Yeo
Tetuan Joseph Yeo

Bagi Pihak Defendant : Tetuan Azian & Co.