

Attachments:

Second Concerns Notice - 30 May 2023 (JM) - v3.docx

From: Moira Deeming
Sent: Friday, June 9, 2023 5:59 PM
To: rachelbaxendale <rachelbaxendale@parliament.vic.gov.au>
Subject: FW: Second Concerns Notice - 30 May 2023 (JM) - v3

Kind Regards,

Moira Deeming MP

State Member for the Western Metropolitan Region

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Standing for Freedom, Fair Laws & Family

(Your ref)

(Our ref) PG::23RRG0495
(Date) 30 May 2023
(Sent by)

Company (Giles)

By Email: [REDACTED]

Mr Peter Bartlett
Minter Ellison
Level 20
Collins Arch
447 Collins Street
Melbourne Victoria 3001

Dear Colleagues,

~~2ND~~ CONCERNS NOTICE – MR JOHN PESUTTO

1. As you know, we act for Mrs Moira Deeming.
2. We note that you act for Mr John Pesutto.

The Claim for Defamation

~~3.~~ This is ~~Mrs Deeming's second~~ 'Concerns Notice' for the purposes of Part 3 of the *Defamation Act* 2005 (VIC) (~~the Act~~) and its counterparts in the other States and Territories issued to Mr Pesutto in respect of his defamatory statements published about Mrs Deeming.

~~4.~~ This ~~second Concerns Notice stands in addition to and/or separate from Mrs Deeming's first Concerns Notice dated 11 May 2023 (First Concerns Notice).~~

~~5.3.~~ Please urgently confirm that the provision of this notice to your firm constitutes "giving" it to Mr Pesutto for the purposes of the Act. We will otherwise endeavour to personally serve him with it in the absence of such confirmation.

~~6.4.~~ On and from 19 March 2023, Mr Pesutto, the Opposition Leader in the Victorian State Parliament and Leader of the Victorian Parliamentary Liberal Party, publicly accused Mrs Deeming, a fellow Member of Parliament from the same Party, of being a Nazi sympathiser and Nazi associate, amongst other things, in the media, and on that basis, threatened and bullied her with expulsion from the Parliamentary Liberal Party (**Parliamentary Party**).

~~7.5.~~ Mr Pesutto's accusations were false and seriously defamatory of Mrs Deeming personally and professionally and have caused serious harm to her reputation. She is entitled to substantial damages as a result.

~~8.6.~~ Mrs Deeming is also entitled to aggravated damages based on Mr Pesutto's conduct set out below which was lacking in good faith, improper and/or unjustifiable, and significantly increased the harm Mrs Deeming has suffered.

Threat to Expel

~~9.~~ Prior to 18 March 2023, Mrs Deeming had arranged for Mr Pesutto and other Members of the Parliamentary Party to meet Kellie-Jay Keen, a speaker at the 'Let Women Speak' rRally to be held ~~that day on 18 March 2023 (Rally) 'Let Women Speak'~~.

~~7.~~

~~40.8.~~ We repeat paragraph 19 of the First Concerns Notice ~~dated 11 May 2023~~ as to the events that took place at the Rally on 18 March 2023. ~~Mr Pesutto was well aware that Mrs Deeming was attending the Rally. [set it out]~~

~~41.9.~~ On 19 March 2023, Mrs Deeming was summoned to a meeting with the Leadership Team - Mr Pesutto, Mr David Southwick, Mr Matthew Bach, Mrs Georgie Crozier (**Leadership Team**) ~~and~~ ~~Also~~ in attendance was a member of the Liberal Parliamentary Party office staff.

~~42.10.~~ Mr Pesutto is responsible as the Leader of the Parliamentary Party and the Leadership Team for the conduct of others within the Leadership Team by approving, condoning or agreeing with that conduct including any failures to act to prevent such conduct and/or failing to direct that it cease.

~~43.11.~~ At the meeting (**19 March Meeting**), Members of the Leadership Team interrogated Mrs Deeming about whether she knew any Nazis. She said she did not. She was asked three times ~~“Are you sure?”~~, to which she replied ~~each time that~~ she was sure ~~each time~~. Mr Bach said “You’ve associated with Angela Jones who argued in a tweet that transgender people are ~~pedophilespaedophiles~~.” Mrs Deeming said she had not seen the tweet being referred to and did not think it was fair that she was expected to interpret it or be held responsible for it. Mrs Deeming pointed out that she herself had never viewed transgender people as ~~pedophilespaedophiles~~, and that her long public record on this issue made that clear.

~~44.12.~~ Members of the Leadership Team continued to attack her, saying that the speakers at the Rally were associated with Nazism and ~~she was asked asking her~~ if she would condemn them. Mrs Deeming said she would not condemn anyone as a Nazi sympathiser without being sure and asked for proof. Mrs Crozier said ~~“It’s all over the internet”~~. Mrs Deeming said ~~“I’ve done nothing wrong, I shouldn’t be held responsible for other people’s tweets that I’ve never seen. I’m not condemning anyone without proof”~~.

~~45.13.~~ Mr Bach then said in an outraged tone ~~“You were drinking champagne with Nazi bigots!”~~ Mrs Deeming denied that was true. He said ~~“Yes it is”~~. She said ~~“It’s not true.”~~ ~~Mr Bach said “You filmed yourself and put it on the internet”~~. ~~Mrs Deeming then realised that he was talking about three women involved in the Rally, not actual Nazis. Mrs Deeming said “Katherine Deves was a Liberal Candidate, the other woman is a left wing Jewish woman. I doubt she was a Nazi”~~. Mrs Deeming was asked ~~“When did you meet Kellie Jay-Keen?”~~ She responded ~~“The same day. I had not met her before”~~. Mrs Deeming offered to repeat her public condemnations of Nazism and bigotry towards transgender people, but refused to condemn the three women or the Let Women Speak tour. Mr Bach said ~~“Because you have challenged us all on this issue, it shows you can’t be rehabilitated”~~.

~~46.14.~~ Mrs Deeming informed the Leadership that she was very tired and asked them to cut to the chase and tell her what they were going to do to her. She was asked to wait while they left the room. After 30 minutes, they returned. Mr Pesutto said ~~“Since you won’t condemn these women or this rally, we have decided to move a motion to expel you. Or, you can make it easier on us all by resigning”~~. Mrs Deeming said ~~“No thank you”~~ and left.

~~47.15.~~ That evening, Mrs Deeming became aware that Mr Pesutto had issued a Media Statement (**Media Statement**) accusing her of being a Nazi sympathiser and of ~~“organising, promoting and participating in a rally with speakers and other organisers who themselves have been publicly associated with far right-wing extremist groups including neo-Nazi activists”~~. He said that he and the Leadership team were jointly moving a motion to expel her from the Parliamentary Party as a result.

~~48.16.~~ The Media Statement was reported widely in the mainstream media and on social media and elsewhere.

Motion to Expel

~~49.17.~~ At some point before 9:39am on 20 March 2023, Mr Pesutto gave an interview to the ABC disclosing that he proposed to issue a ~~m~~otion to expel Mrs Deeming (**ABC Interview**). That interview resulted in an article with a video being uploaded onto the ABC website entitled “**VIDEO: Victorian Liberal MP**

set for expulsion over anti-trans protest'. ~~That article can be accessed at this link at url: https://www.abc.net.au/news/2023-03-20/victorian-opposition-leader-to-expel-mp-over-anti-trans-protest/102118582?utm_campaign=abc_news_web&utm_content=mail&utm_medium=content_shared&utm_source=abc_news_web~~

~~20.~~ In the afternoon of 20 March 2023, Mrs Deeming issued a statement on Facebook refuting Mr Pesutto's claims. Despite access to ~~her Mrs Deeming's~~ answers during the 19 March ~~meeting~~ Meeting referred to above, and the content of her Facebook statement, Mr Pesutto persisted in his malicious campaign of denigration without reference to what Mrs Deeming had told him.

~~18.~~

~~24-19.~~ Later, at 5.32pm on 20 March 2023, Mr Pesutto served Mrs Deeming with a notice to call a special meeting of the Parliamentary Party and move a motion to expel her from the Parliamentary Party (**First Motion**) ~~and~~. Mr Pesutto sent ~~the First Motion~~ to Mrs Deeming and all Members of the Parliamentary Party. The First Motion included an 'Annexure' which ~~he Mr Pesutto~~ dubbed a 'Dossier' purporting to set out the evidence against Mrs Deeming. ~~The First Motion and Dossier are 'Annexure A' to the First Concerns Notice attached to this notice.~~

~~22.~~ Mr Pesutto further distributed the First Motion and Dossier to the media, including to The Australian and Herald Sun, with the knowledge and intention that the matters of which he and the Leadership team had accused her would seriously damage Mrs Deeming's reputation not only within the Parliamentary Party but also outside in the electorate and the world at large, and hold her up to vilification, contempt, abuse and ridicule, and mislead the public into believing that the expulsion was justified.

~~23-20.~~ ~~The Australian Article dated 23 March 2023 is 'Annexure B' to the First Concerns Notice.~~

~~24-21.~~ The conduct of Mr Pesutto in distributing the First Motion including the Dossier to the media are separate acts of publication for which he is liable, including liability for the damage caused by the consequential replications of those documents (or parts thereof) in the media and elsewhere.

~~25-22.~~ Mrs Deeming felt extremely distressed by the 19 March interrogation, the false and defamatory accusations being made ~~against her~~ by all four leaders of her Parliamentary Party, the media campaign orchestrated by Mr Pesutto, and the First Motion to expel her, which was an exceptional move for the Leadership of any political party to take, and all based on the false and defamatory accusation that she was associated with Nazism.

~~26-23.~~ The media and public condemnation of her snowballed with wider condemnation of her from many quarters. Mr Pesutto is now liable for the damage that his improper tortious conduct has caused.

~~24.~~ In the days following publication of the First Motion, Mr Bach and another Member, Mr David Davis, said in media interviews there would be no compromise on the expulsion motion. A staffer from Mr Southwick's office sat outside ~~her Mrs Deeming's~~ office in what ~~Mrs Deeming she~~ (and others) considered was ~~a transparent attempt to intimidation of e~~ her but also to record and intimidate any Members who went to visit her in the leadup to the ~~determination of the First Motion~~. Mrs Deeming understands that the conduct of these persons was at the direction of Mr Pesutto.

~~27.~~ 27 March Meeting

~~28-25.~~ The meeting to consider the First Motion was held on 27 March 2023 (27 March Meeting).

On the morning of the 27 March Meeting and before it commenced, Mrs Deeming sent Members her detailed response to the First Motion and the Dossier ~~and the First Motion~~. It comprehensively rejected the accusations made against her and the other speakers at the Rally of being Nazi sympathisers or having associations with Nazism.

~~26.~~

~~29.~~ Mr Pesutto was Chairman of the [27 March Meeting](#). After a number of Members spoke in ~~her Mrs Deeming's~~ support, and then immediately after ~~Mrs Deeming she~~ spoke in her own defence rejecting the accusations against her, Mr Pesutto called for a short break to the [27 March Meeting](#).

~~27.~~

~~The Compromise Agreement~~

~~30-28.~~ During the break, a discussion took place between ~~M~~members of the Leadership Team and Mrs Deeming and Members on her behalf seeking to resolve the matter.

~~34-29.~~ Mr Pesutto offered to withdraw the First Motion on the basis that Mrs Deeming accept a suspension from the Parliamentary Party for 9 months.

~~32-30.~~ In response, Mrs Deeming said that she would only agree to the suspension if Mr Pesutto would publish a joint statement with her in which he exonerated her from the defamatory accusations he and the Leadership ~~T~~team had published about her, that is, make a full and public retraction of the accusations that had been made about her, and that she would be automatically reinstated at the end of the 9 months- **(Compromise Agreement)**.

~~33-31.~~ She and those acting on her behalf understood and honestly believed that Mr Pesutto agreed at the time to Mrs Deeming's conditions.

~~34-32.~~ Mr Pesutto called for the resumption of the [27 March Meeting](#) and announced that he withdrew the First Motion and there was a compromise reached. This was met with applause. Mr Pesutto then listed the terms of the Compromise Agreement to ~~the those at the 27 March Meeting~~ and it was approved.

~~33.~~ The Secretary of the Parliamentary Party, Ms Renee Heath, made a record of Mr Pesutto's statements in which she noted that there was a *"promised compromise"* that Mrs Deeming was to be suspended for 9 months; that Mr Pesutto and Mrs Deeming would issue a *"joint statement"*; and that there would be a *"media statement"* which would *"make it clear that no one was accusing [her] of being a Nazi, or Nazi sympathiser"*.

~~35. Breach of Compromise Agreement~~

~~36-34.~~ After the [27 March Meeting](#) ~~on 27 March 2023~~, Mrs Deeming went to the Secretary's room to wait for Mr Pesutto to meet with her to prepare the joint statement. After some time, Ms Heath texted Mr Pesutto saying that Mrs Deeming was waiting to find out when he was meeting her to make the joint statement. He responded saying he would get his office to get in touch with her to start working on it as he was going to a meeting after doing a media conference.

~~37-35.~~ In fact, Mr Pesutto had attended a media conference immediately following the [Parliamentary Party meeting 27 March Meeting](#). In ~~the that~~ media conference, he said that the First Motion was withdrawn because Mrs Deeming had made *"concessions"*. He said that he accepted Mrs Deeming's suspension (rather than expulsion) given *"Moirra had provided what I had been seeking and recognised why it was important to do that"*, and that *"the conduct that I wanted condemned has been condemned"*.

~~38-36.~~ Mr Pesutto said that Mrs Deeming had provided Members with a memorandum which *"contained a condemnation of the types of conduct that's referred to in the Dossier and which I'd been seeking all along. That was the reason for the notice of motion in the first place. So, having provided that information, it then provided an opportunity that I was able to identify to reach an outcome that would see a consequence attached to not having provided that condemnation at the earliest opportunity but also providing a way back so it's up for Moira to choose how she goes about that. But that information was contained, signed in a memorandum that Moira provided to Party room members, I won't provide that myself to you, but I was satisfied that it contained a condemnation that I had been seeking all along... Now understand what had happened here, I and my colleagues, we had sought from Moira, the concessions that she's provided this morning. We sought that last weekend on that"*

Sunday night. *Having received the material this morning from Moira, which contains that condemnation, I was satisfied that she understood why it was important to do that and also accepts why it's important for there to be a serious consequence.*

~~39.~~37. Mr Pesutto knew that the statements in the preceding paragraphs were dishonest and flagrantly misrepresented what had occurred and had been agreed with Mrs Deeming by way of compromise. The submissions made by Mrs Deeming to Members ~~on 27 March 2023 during the Meeting at the 27 March Meeting~~ in fact conveyed the strongest possible denial of the accusations of being a Nazi sympathiser or knowingly being associated with Nazis and rejection of the assertions in the Dossier. Mr Pesutto's conduct in making these knowingly false statements was improper, in bad faith and indefensible. The conduct also amounted to a blatant breach of the Compromise Agreement, a matter which reflects seriously upon Mr Pesutto's integrity and suitability as leader of the Parliamentary Party.

~~40.~~38. Subsequently, Mr Pesutto breached the Compromise Agreement again by not joining with Mrs Deeming in making a public statement, as agreed, or retract or withdraw the imputations he had published about her, nor did he apologise to her, ~~and a~~ Instead, a statement was issued in Mrs Deeming's name alone which arose in the following circumstances at the direction and/or approval of Mr Pesutto:

- a. Late in the afternoon/evening after the 27 March Meeting, Mrs Deeming became aware (unaware of Mr Pesutto's statements at the media conference) that rumours were spreading on social media that she had made 'concessions' and condemned the organiser of the Rally, Angie-Angela Jones, and Katherine Deves. In response, she posted twice on Twitter, that this was not correct.
- b. That same afternoon/evening, a Member of the Leadership Team, Mr Southwick, ~~provided~~ her with what she understood to be a draft of what was proposed as the joint statement exonerating her from the accusations made against her by Mr Pesutto and the Leadership Team. The draft wording included the following: *"I fully regret my attendance and participation in the rally attended by Nazis on the steps of the Victorian Parliament on Saturday 18 March... I... condemn the commentary of Kellie Kay Keen and Angie Jones. I... unreservedly apologise. I accept that my actions have also caused profound hurt to my colleagues, and I apologise to them and fully accept my lengthy suspension..."*
- c. Mrs Deeming (correctly) rejected this statement as being the exact opposite of the Compromise Agreement, which was unequivocally agreed to be a joint statement with Mr Pesutto ~~and which~~ would exonerate her from ~~every the~~ accusations against her. Mrs Deeming repeated her claim that the Nazis never *"attended"* the ~~R~~ rally. She asked where was the exoneration promised, and where was Mr Pesutto. Mr Southwick said that he was representing the Leadership Team and they had to get her part done first. Mrs. Deeming said she would never sign ~~it~~ the draft statement. Mr Southwick said if she did not, they would go back in the Party room for another vote and everyone would be angry at her and she would be expelled. Mrs Deeming understood this to be blackmail and coercion, requiring her to denounce her own political beliefs about sex-based rights in law as bigoted and also as coercion to defame others for what she knew to be false allegations. Mrs Deeming-She was furious about being threatened with expulsion again, over the same false allegations. She told Mr Southwick that having to go back to the Party room was not her problem because this was not what she agreed to. She said she would rather go back in the Party room again and be expelled than ever sign her name to this statement.
- d. After much discussion and further intimidation and bullying by Mr Southwick on Mr Pesutto's behalf, Mrs Deeming provided her part of the proposed joint statement in accordance with the Compromise Agreement but was not provided with Mr Pesutto's exoneration statement in return. Mr Pesutto did not ever contribute his part on behalf of the Leadership.
- e. The statement was then unilaterally issued by the Liberal Nationals Media on 27 March 2023 as a statement from her alone. She did not agree to that publication and has not posted it herself.

41-39. The conduct summarised above is seriously concerning, particularly by the release of a statement in [our client's Mrs Deeming's](#) name without her consent, in order to mislead and deceive [the Australian public](#).

42-40. Mr Pesutto was interviewed on the ABC 7.30 Report the same evening during which he made further misleading statements having regard to the circumstances described above:

Presenter: 'Moira Deeming has walked back her condemnation of the Rally and its organiser, will you move again to expel her from the Liberal Party?'

Pesutto: 'What I would say if I just take our views back a step I brought this motion last Sunday because I was very concerned that certain types of conduct by people associated with Moira Deeming and the conduct of that rally was totally unacceptable and I wanted a condemnation of that. Now despite the passage of last week, we didn't get from Moira, until very early this morning her specific condemnation of that, followed by what was in essence a very tough and emotional (interrupted)

Presenter: 'Moira Deeming published a tweet just a couple of hours ago, talking to the organiser of the rally and this is someone with very clear, for our audience, very clear far right associations, many of which you detail in the dossier that you presented to your own party room, she said speaking directly to that person 'don't worry I never condemned you'. So I just want to ask you, that is Moira Deeming walking back her condemnation which is also supported in the statement she made this evening. Will you move to expel her from your party?'

Pesutto: 'If [the party room] sees evidence that there's a difference between what we were assured in written and oral presentations to the party room and what is being posted on social media then yeah, there will be consequences with that. The party will be looking very closely, all of us, who believed what was put to us. If, as I've seen this evening, there are comments on social media that are inconsistent with that ... that is a matter Moira would have to take very seriously because there will be repercussions'.

The Minutes

43-41. On 27 March 2023, Mrs Deeming was not provided with the written record of the Compromise Agreement or the resolution passed by Members. On 28 March 2023, she requested the Minutes of the [27 March Meeting of the previous day](#) from Mr Pesutto. ~~and He~~ did not respond. She also requested the Minutes from the Secretary, Ms Heath, on three occasions. Mr Pesutto refused to allow Ms Heath to release them.

44-42. As a result of Mr Pesutto's false public statements regarding ~~the her~~ suspension, Mrs Deeming was ostracised by other Members of the Parliamentary Party and was shut out from Parliamentary Party resources and communications. She was stripped of her position as Whip in the Upper House and suffered loss of income which will be claimed as special damages.

45-43. Mr Pesutto did not contact Mrs Deeming to address her concerns about the lack of documentation of the Compromise Agreement, his refusal to honour it, his failure to produce the Minutes of the [27 March Meeting](#) or his false public statements about each of those matters.

46-44. The Aston byelection for the Federal seat was held days later on 1 April 2023.

47-45. The Victorian State Parliament was in recess during the Easter period in April.

48-46. In late April, Mrs Deeming continued to seek affirmation of the conditions of her suspension and clarity as to why Mr Pesutto refused to honour the Compromise Agreement. As Mr Pesutto and the Leadership Team refused to speak with Mrs Deeming about the issue, Mr Kim Wells represented her interests in discussions with the Leadership Team.

49-47. On 2 May 2023, the Members held a meeting at which Mr Pesutto as Chairman and Leader of the Parliamentary Party disputed the accuracy of Ms Heath's draft Minutes of the ~~Meeting of 27 March 2023~~ Meeting. He said her notes were too detailed and he rejected them. He (unfairly) criticised her, saying there were ~~3~~-three versions of the draft Minutes with no likeness to each other.

50-48. Mr Pesutto's statement was false. The first two versions of the Minutes were substantially the same and the third had an addendum in respect of one Member who spoke at the ~~meeting 27 March~~ Meeting but whose contribution had not been recorded in the first two versions.

51-49. After this meeting on 2 May 2023, Ms Heath complained to Members that she felt bullied and disrespected as a result. In ~~the her~~ email, she said: *"I once again feel completely stitched up and misrepresented by the leadership with no ability to defend myself. I wasn't even given the space to correct the mistruths about me in today's meeting. I am upset. Very upset. The way I have been treated and the way other conservative women in this party are treated is nothing short of bullying."*

52-50. Meanwhile, the discussions between Mr Wells and the Leadership Team failed to reach an agreed position on the promised exoneration of Mrs Deeming through a joint statement.

53-51. In these circumstances, on 4 May 2023, Mrs Deeming complained to the Leadership Team (~~a copy of her email attached is enclosed as "Annexure A"~~) that Mr Pesutto and the Leadership team had not honoured the Compromise Agreement. She said her principal priority since Mr Pesutto and the Leadership Team had made the accusations against her was to have her name cleared 'for the sake of my children'.

54. She said that if by 2pm that day there was not an agreed upon statement that exonerated her from the accusations, she would consider that the Leadership had failed to honour the Compromise Agreement and she would be forced to challenge it officially, demand re-entry to the Party room and instruct her lawyers to commence legal proceedings to resolve the dispute.

55-52. The reference to 'legal proceedings' in the context plainly meant enforcing the Compromise Agreement.

56-53. Mr Southwick met with Mrs Deeming and Mr Wells and informed her that he did not recall such an agreement and that the Leadership Team would not be mediating further because of the ultimatum of a deadline.

57-54. Mr Pesutto responded through the media, being quoted by the ABC:

"I can say categorically that the exoneration that Moira has sought in the email this morning ... will not be happening. What was in the motion stands. Nothing in the dossier ever accused Moira Deeming of being a Nazi or herself having Nazi sympathies."

58-55. The ABC also reported that Senior Liberal MPs had already begun discussing if Mrs Deeming should now be expelled from the Party room over her legal action.

The Second Motion

59-56. On Saturday 6 May 2023, Mr James Newbury initiated (by email at 3.53pm) another motion to expel Mrs Deeming in similar terms to the First Motion with a request for a special meeting to be held on Friday 12 May 2023 (**Second Motion**).

60-57. The reason stated was that Mrs Deeming had "engaged in conduct in violation of Clause 57 [of the Parliamentary Party Constitution (**the Constitution**)], bringing discredit on the Parliamentary Party".

61-58. In breach of Clause 59 of the Constitution:

- a. The Second Motion was not signed by the Members; and

- b. More importantly, the Second Motion it did not state or provide any grounds or reasons in support of the alleged 'violation' of Clause 57 and in support of the proposed expulsion. Clause 59 provides that the notice of motion for expulsion shall specify the reasons for the proposed expulsion.

62-59. Mr Pesutto, as Leader and Chairman, accepted the Second Motion within 15-20 minutes of its receipt receiving it (by email from Mr Newbury at 3.53pm) and distributed it to ~~the~~ Members (by email at 4.10pm). Our client understands that Mr Newbury was acting under the direction and/or approval of Mr Pesutto in initiating the Second Motion.

63-60. Mrs Deeming twice requested that she be informed of the grounds or reasons said to support the Second Motion - in her email of 7 May 2023, she requested "*a copy of the alleged conduct that has apparently brought the Party into disrepute*"; and in her email of 9 May 2023, she requested "*a copy of the exact conduct to which the expulsion motion refers*" (and specifically said she was making the request "*so that I can prepare my defence*"). She was not provided the reasons which were said to support the Second Motion as required by Clause 59. She then refused to attend the meeting because she had no way to defend herself from unspecified allegations and had lost all faith in the Party room process and the integrity of Mr Pesutto and the Leadership.

64-61. The Second Motion, like the First Motion, was widely publicised by Mr Pesutto and as a result it was reported in the mainstream media and elsewhere (including social media) – for example:

- a. By the ABC – at the following URLs:

<https://www.abc.net.au/news/2023-05-06/moira-deeming-denies-plans-sue-victorian-liberal-party-expulsion/102312462>

<https://www.abc.net.au/news/2023-05-07/victorian-liberal-party-divisions-moira-deeming-john-pesutto/102313978>

- b. By the Age – at the following URL:

<https://www.theage.com.au/politics/victoria/deeming-backs-down-from-legal-threat-against-pesutto-20230506-p5d68m.html>

- c. By the AFR – at the following URLs:

<https://www.afr.com/politics/federal/deeming-backtracks-on-threat-to-sue-liberals-20230506-p5d69h>

<https://www.afr.com/politics/moira-deeming-to-face-expulsion-vote-for-second-time-20230508-p5d61a>

- d. By The Guardian – at the following URL:

<https://www.theguardian.com/australia-news/2023/may/06/moira-deeming-suspended-victorian-liberal-mp-says-she-never-once-considered-suing-party>

65-62. The flagrant breach of Clause 59 of the Constitution above was ridiculed and dismissed by anonymous Members in the media.

66-63. Mrs Deeming requested that Mr Pesutto as the Chairman of the meeting require that the Second Motion be withdrawn in the circumstances. He did not do so.

67-64. Mr Pesutto knew that the Second Motion breached Clause 59 of the Constitution, but as Chairman ignored those contraventions and accepted it and supported it. He refused to answer Mrs Deeming's emails requesting due process and information, he further refused to state the reasons for the expulsion, when questioned publicly, saying that the reasons had been well publicised already.

~~68-65.~~ In the absence of reasons for the proposed expulsion and given Mr Pesutto's refusal to publicly withdraw his accusations about Mrs Deeming, the Second Motion revived the First Motion with the Dossier and conveyed the same false and defamatory accusations against her as the First Motion.

Expulsion - "You cannot sue your boss and expect to keep your job"

~~69-66.~~ On 12 May 2023, the Second Motion to expel Mrs Deeming was approved at a meeting of the Parliamentary Party ([the 12 May Meeting](#)) despite the obvious and deliberate non-compliance with mandatory requirements of the Constitution.

~~70-67.~~ The [12 May Meeting](#) also resolved to remove Ms Heath as Party Secretary, on the basis (of a false claim) that she had not satisfactorily performed her role as Secretary when she recorded the conditions of the Compromise Agreement in her notes.

~~71.~~ After the ~~meeting on 12 May 2023~~ [12 May Meeting](#), Mr Pesutto deliberately misrepresented the reasons for the expulsion. He claimed, falsely, that it was based on Mrs Deeming's threat to sue him for defamation ~~as set out in the First~~ [in a](#) Concerns Notice.

~~72.~~ ~~However, the First Concerns Notice was served on Mr Pesutto on 11 May 2023. That Notice and could not possibly have been the basis for the Second Motion which was issued on 6 May 2023.~~

~~68.~~

~~73.~~ Moreover, Mr Pesutto told Members at the ~~expulsion meeting~~ [12 May Meeting](#) that Mrs Deeming's ~~First~~ Concerns Notice had threatened to sue all of the Members individually. This was also false ~~and he must have known it was false.~~ One of the Members asked to see the ~~First~~ Concerns Notice to understand the risk to Members. Mr Pesutto refused to table it, presumably because its content would plainly contradict his lie to Members.

~~69.~~

~~74-70.~~ After the meeting, the Member who initiated the Second Motion, Mr Newbury, stated to the media that "You cannot sue your boss and expect to keep your job" and that "Suing your party and your leader is a gross act of betrayal". Our client understands these statements were made at the behest of, or with the approval of, Mr Pesutto.

~~75-71.~~ Mrs Deeming considered these comments patronising, paternalistic, and misogynistic. They totally ignored the circumstances described in this correspondence, namely the series of dishonest, unjustified, unlawful and improper acts engaged in by Mr Pesutto.

~~76-72.~~ The comments were also embarrassingly ignorant of the law, namely that 'bosses' who threaten and bully employees can expect not only to be sued but to lose their jobs for workplace misconduct. The law protects employees' rights, particularly the rights of women, who have no alternative other than to make a complaint about, or to sue, their boss for workplace misconduct (such as publicly abusing them and defaming them and calling them a Nazi sympathiser). A threat to sue a boss is no longer grounds for dismissal. Retaliation against a person for complaining about the way they have been treated at work is victimisation and amounts to an unlawful adverse action.

United Nations

~~77-73.~~ Mrs Deeming has suffered terribly as a result of Mr Pesutto's ~~and the Leadership Team's~~ unlawful defamation of her reputation from 19 March [2023](#) onwards. She has been extremely humiliated, abused, vilified, and demonised in the public eye.

~~78-74.~~ This suffering has drawn the attention and condemnation of an expert at the United Nations.

~~79-75.~~ On 22 May 2023, the United Nations Special Rapporteur on violence against women and girls issued a statement expressing concern about the threats and intimidation against women expressing their opinions on sex and sexual orientation.

~~80-76.~~ The UN ~~e~~Expert said that discrimination on this basis was prohibited in international and regional human rights law. She said *“I am disturbed by the frequent tactic of smear campaigns against women...Branding them “Nazis”..or “extremists”...Of particular concern are the various forms of reprisals...In some cases, women politicians are sanctioned by their political parties, including through the threat of dismissal or actual dismissal”*.

~~81-77.~~ The smearing of Mrs Deeming as a Nazi sympathiser, with firstly the threat of expulsion based on this public smear, and then the actual expulsion from the Parliamentary Party she was elected to represent, evidences the most serious harm to her reputation personally and professionally, which is and will be ongoing unless and until she is vindicated.

The Media Statement

~~82-78.~~ The Media Statement published by Mr Pesutto on 19 March 2023 ([see paragraphs 17-18 above](#)) is the first ‘matter in question’ for the purposes of s 12A of the Act.

~~83-79.~~ The Media Statement was republished in newspapers and online by mainstream media outlets including the ABC, SBS and the Herald Sun and elsewhere. Mrs Deeming relies on the republications as going to damages.

~~84-80.~~ Mr Pesutto is responsible for these republications because he intended and expressly or implicitly authorised the repetition of the Media Statement and it was the natural and probable consequence of him distributing the Media Statement.

~~85.~~ We enclose, as “**Annexure AB**”, a copy of the Media Statement.

~~81.~~

Defamatory Imputations

~~86.~~ The Media Statement carried the following imputations of and concerning Mrs Deeming (or imputations that do not differ in substance):

~~82.~~

- a. *Moira Deeming supports white supremacists and Neo-Nazis.*
- b. *Moira Deeming holds abhorrent white supremacist and Neo-Nazi views.*
- c. *Moira Deeming knowingly associates with white supremacists and Neo-Nazis.*
- d. *Moira Deeming sympathises with white supremacists and Neo-Nazis.*
- e. *Moira Deeming is a Neo Nazi.*
- f. *Moira Deeming is a white supremacist.*
- g. *Moira Deeming is unfit to sit in the Victorian Parliament because she supports white supremacists and Neo-Nazis.*
- h. *Moira Deeming is unfit to sit in the Victorian Parliament because she holds abhorrent white supremacist and Neo-Nazi views.*
- i. *Moira Deeming is unfit to sit in the Victorian Parliament because she knowingly associates with white supremacists and Neo-Nazis.*
- j. *Moira Deeming is unfit to sit in the Victorian Parliament because she sympathises with white supremacists and Neo-Nazis.*
- k. *Moira Deeming is unfit to sit in the Victorian Parliament because she is a Neo Nazi.*
- l. *Moira Deeming is unfit to sit in the Victorian Parliament because she is a white supremacist.*

- m. *Moira Deeming is unfit to belong to the Victorian Parliamentary Liberal Party because she supports white supremacists and Neo-Nazis.*
- n. *Moira Deeming is unfit to belong to the Victorian Parliamentary Liberal Party because she holds abhorrent white supremacist and Neo-Nazi views.*
- o. *Moira Deeming is unfit to belong to the Victorian Parliamentary Liberal Party because she knowingly associates with white supremacists and Neo-Nazis.*
- p. *Moira Deeming is unfit to belong to the Victorian Parliamentary Liberal Party because she sympathises with white supremacists and Neo-Nazis.*
- q. *Moira Deeming is unfit to belong to the Victorian Parliamentary Liberal Party because she is a Neo-Nazi.*
- r. *Moira Deeming is unfit to belong to the Victorian Parliamentary Liberal Party because she is a white supremacist.*
- s. *Moira Deeming is unfit to belong to the Liberal Party because she supports white supremacists and Neo-Nazis.*
- t. *Moira Deeming is unfit to belong to the Liberal Party because she holds abhorrent white supremacist and Neo-Nazi views.*
- u. *Moira Deeming is unfit to belong to the Liberal Party because she knowingly associates with white supremacists and Neo-Nazis.*
- ~~v.~~ *Moira Deeming is unfit to belong to the Liberal Party because she sympathises with white supremacists and Neo-Nazis.*
- ~~v.~~
- w. *Moira Deeming is unfit to belong to the Liberal Party because she is a Neo Nazi.*
- x. *Moira Deeming is unfit to belong to the Liberal Party because she is a white supremacist.*

~~87-83.~~ Each of those imputations is clearly carried by the Media Statement, and each is obviously and seriously defamatory of Mrs Deeming.

~~88-84.~~ The Media Statement was false and did not reflect what had actually happened at the 'Let Women Speak' ~~event~~ Rally on 18 March 2023 or Mrs Deeming's involvement with it. Mrs Deeming's account of events which she had given, albeit under the intimidation of the Leadership Team on the same day, 19 March 2023, was not represented by Mr Pesutto in the Media Statement in any relevant way. Mr Pesutto's conduct in misrepresenting what occurred bespeaks malice on his part for the purposes of any defences he may seek to rely on.

The ABC Interview

~~89-85.~~ The ABC Interview ([see paragraph 19 above](#)) is the second 'matter in question' for the purposes of s 12A of the Act.

~~90-86.~~ The ABC Interview (or parts of it) was republished by the ABC on television and online (**ABC Broadcasts**). Mr Pesutto is responsible for the ABC Broadcasts because he intended and expressly or implicitly authorised them and they were the natural and probable consequence of him giving the ABC Interview.

~~91-87.~~ A video of the ABC Interview was republished on the ABC News website (<https://www.abc.net.au/news/>), with the title "Victorian government moves to ban Nazi salute as Liberals move to expel MP Moira Deeming over anti-trans rights rally" (**the ABC Article**).

92-88. Mr Pesutto is also responsible for the ABC Article, insofar as it republishes the ABC Interview (or parts of it), because he intended and expressly or impliedly authorised the republication of the ABC Interview and because that republication was the natural and probable consequence of him giving the ABC Interview.

93-89. We enclose:

- a. As “**Annexure BC**”, a copy of the ABC Article; and
- b. As “**Annexure CD**”, a transcript of the video of the ABC Interview republished in the ABC Article.

94-90. The ABC Article is available at the following link: <http://www.abc.net.au/news/2023-03-19/victorian-liberals-move-to-expel-mp-who-attended-rally/102117788>.

95. We do not otherwise have a copy of the ABC Interview and will obtain the full recording in a subpoena issued in the proceedings to the ABC.

91. ~~Defamatory Imputations~~

96-92. The ABC Interview, and therefore also the ABC Broadcasts and the ABC Article which republished it, carried the following imputations of and concerning our client (or imputations that do not differ in substance):

- a. *Moira Deeming supports white supremacists and Neo-Nazis.*
- b. *Moira Deeming holds abhorrent white supremacist and Neo-Nazi views.*
- c. *Moira Deeming knowingly associates with white supremacists and Neo-Nazis.*
- d. *Moira Deeming sympathises with white supremacists and Neo-Nazis.*
- e. *Moira Deeming is a Neo Nazi.*
- f. *Moira Deeming is a white supremacist.*
- g. *Moira Deeming is unfit to sit in the Victorian Parliament because she supports white supremacists and Neo-Nazis.*
- h. *Moira Deeming is unfit to sit in the Victorian Parliament because she holds abhorrent white supremacist and Neo-Nazi views.*
- i. *Moira Deeming is unfit to sit in the Victorian Parliament because she knowingly associates with white supremacists and Neo-Nazis.*
- j. *Moira Deeming is unfit to sit in the Victorian Parliament because she sympathises with white supremacists and Neo-Nazis.*
- k. *Moira Deeming is unfit to sit in the Victorian Parliament because she is a Neo Nazi.*
- l. *Moira Deeming is unfit to sit in the Victorian Parliament because she is a white supremacist.*
- m. *Moira Deeming is unfit to belong to the Victorian Parliamentary Liberal Party because she supports white supremacists and Neo-Nazis.*
- n. *Moira Deeming is unfit to belong to the Victorian Parliamentary Liberal Party because she holds abhorrent white supremacist and Neo-Nazi views.*
- o. *Moira Deeming is unfit to belong to the Victorian Parliamentary Liberal Party because she knowingly associates with white supremacists and Neo-Nazis.*

- p. *Moira Deeming is unfit to belong to the Victorian Parliamentary Liberal Party because she sympathises with white supremacists and Neo-Nazis.*
- q. *Moira Deeming is unfit to belong to the Victorian Parliamentary Liberal Party because she is a Neo-Nazi.*
- r. *Moira Deeming is unfit to belong to the Victorian Parliamentary Liberal Party because she is a white supremacist.*
- s. *Moira Deeming is unfit to belong to the Liberal Party because she supports white supremacists and Neo-Nazis.*
- t. *Moira Deeming is unfit to belong to the Liberal Party because she holds abhorrent white supremacist and Neo-Nazi views.*
- u. *Moira Deeming is unfit to belong to the Liberal Party because she knowingly associates with white supremacists and Neo-Nazis.*
- v. *Moira Deeming is unfit to belong to the Liberal Party because she sympathises with white supremacists and Neo-Nazis.*
- w. *Moira Deeming is unfit to belong to the Liberal Party because she is a Neo Nazi.*
- x. *Moira Deeming is unfit to belong to the Liberal Party because she is a white supremacist.*

97. Each of those imputations is clearly carried by the ABC Interview, and each is obviously and seriously defamatory of Mrs Deeming.

93. -

98-94. The ABC Interview was false and did not reflect what had actually happened at the 'Let Women Speak' event Rally on 18 March 2023 or Mrs Deeming's involvement with it. Mrs Deeming's account of events which she had given, albeit under the intimidation of the Leadership Team on the day before 19 March 2023, was not represented by Mr Pesutto in the ABC Interview in any relevant way. Mr Pesutto's conduct in misrepresenting what occurred bespeaks malice on his part for the purposes of any defences he may seek to rely on.

Serious Harm

99-95. Our client considers that each of the Media Statement and the ABC Interview has already caused serious harm and is likely to cause further serious harm to Mrs Deeming's reputation within the meaning of s 10A of the Act – including because of the following facts and matters:

- a. The extensive and wide spread repetition of the allegations in each publication in the mass media and social media.
- b. The seriousness of the imputations ~~(see the examples in The First Concerns Notice)~~.
- c. Prior to the Media Statement and the ABC Interview, Mrs Deeming had a respected reputation within the Victorian Liberal Party, her constituency, and the community, and was proud of the contribution that she and her family had made as a Member of Parliament.
- d. Since the publication of the Media Statement and the ABC Interview, Mrs Deeming has been subjected to vile abuse and harassment from sections of the public and fears for the safety of her family. This reaction, which has been caused by Mr Pesutto's campaign against Mrs Deeming, reflects the significant damage to her reputation within the broader community.
- e. The publication of the Media Statement and the ABC Interview caused, and/or exacerbated, a tide of negativity and opprobrium towards Mrs Deeming which culminated in her expulsion from the Parliamentary Party.

- f. Mr Pesutto's role - as the Leader making allegations about a Member of his own Parliamentary Party - means that many of those to whom the Media Statement and the ABC Interview were published have believed, and were likely to believe, that the defamatory imputations are true. That is the case irrespective of the falsity of the imputations and irrespective of contrary information from Mrs Deeming or other sections of the public and media. This has significantly undermined the way in which Mrs Deeming is seen and regarded not only by constituents and members of the public or the Left or other political persuasions who may actively disagree with Mrs Deeming and her political positions but also by members of the Liberal Party and other persons with centre-right views that would otherwise have supported her. This is particularly the case as Mr Pesutto took the drastic steps toward threatening to expel Mrs Deeming from the Parliamentary Party, a highly unusual step in Australian politics, indeed a step of 'last resort', and then expelling her. The fact that Mrs Deeming has been expelled from the Parliamentary Party will reinforce, in the minds of ordinary reasonable people to whom the Media Statement and the ABC Interview were published, that the imputations were regarded as true by those who voted to expel Mrs Deeming, that they are true, and that they were the basis for Mrs Deeming's expulsion.
- g. The Media Statement and the ABC Interview (and republications of them) remain available online for download. The media outlets republishing the Media Statement and the ABC Interview have large audiences in Victoria and throughout Australia. Accordingly, the Media Statement and the ABC Interview were indiscriminately published to a very wide audience, and it is to be inferred that many of the recipients would believe the imputations to be true. The incursion by Neo-Nazis at the [event Rally](#) on 18 March 2023, and Mr Pesutto's steps to have Mrs Deeming removed from the Parliamentary Party as a result, made the Media Statement and the ABC Interview particularly topical as news and has made Mrs Deeming the target of gossip and abuse online and on social media.
- h. The Media Statement and the ABC Interview and Mr Pesutto's false allegations against Mrs Deeming have been widely discussed on a large number of other platforms, including social media, particularly given the political interest and notoriety of the incursion by Neo-Nazis at the [event Rally](#) on 18 March 2023 and Mr Pesutto's subsequent campaign to expel Mrs Deeming from the Parliamentary Party, meaning that the grapevine effect has increased the harm to Mrs Deeming's reputation.
- i. Given the Media Statement and the ABC Interview remain available online for download, in the absence of a public and sincere retraction and apology from Mr Pesutto, the harm to Mrs Deeming's reputation is likely to continue.

Offer

~~400-96.~~ We are instructed to make the following offer in order to resolve the dispute:

- a. Mr Pesutto will agree to never repeat or republish the contents of the Media Statement or the ABC Interview or any of the imputations particularised in this letter (or imputations that do not differ in substance) in any form.
- b. Mr Pesutto will have the ~~s~~Statement that was published in Mrs Deeming's name alone ([see paragraphs 41-42 above](#)), which does not have the promised exoneration included, deleted from every Liberal Party platform.
- c. Mr Pesutto will provide to Mrs Deeming a signed and dated letter, on his letterhead and personally signed by him, with the following Apology, to be used by Mrs Deeming as she sees fit for the purpose of vindicating her reputation:

Apology to Moira Deeming

On 19 March 2023, I, John Pesutto, issued a ~~Media-media Statement statement~~ and gave an interview to ABC News which were then widely published by television broadcast and online.

My [media](#) statement and interview made false and defamatory allegations about Moira Deeming concerning her attendance at the 'Let Women Speak' event on 18 March 2023.

I withdraw those allegations without reservation.

They should never have been made.

I sincerely apologise to Moira Deeming for the harm, hurt and distress which I have caused to her and her family by making the false allegations."

(the "Apology")-

- d. Mr Pesutto will publish the Apology for a period of 14 days in a prominent position on his website and all social media accounts/platforms.
- e. Mr Pesutto will pay Mrs Deeming her reasonable legal costs in pursuing this matter.

~~401.97.~~ Finally, in anticipation of legal proceedings, we request that Mr Pesutto retain all communications – from 18 March 2023 to date and ongoing – which are potentially relevant to Mrs Deeming's claim for defamation and the events referred to in this letter – including (without limitation) all records of communications:

- a. Between Mr Pesutto, and others on his behalf or at his direction, with any journalists or members of the media in respect of the Media Statement and the ABC Interview and media statements following the [Parliamentary Party meeting of 27 March 2023 Meeting](#) and the [12 May Meeting of 12 May 2023](#);
- b. Between Mr Pesutto, and others on his behalf or at his direction, with Members of the Leadership Team in respect of the First and Second Motions and the Compromise Agreement (as defined above);
- c. Between Mr Pesutto, and others on his behalf or at his direction, with Renee Heath in respect of the First and Second Motions and the Compromise Agreement (as defined above).

~~402.~~ This includes immediately capturing relevant "disappearing" messages that have been exchanged on messaging systems, including WhatsApp and Signal.

~~403.98.~~ We note that your client has 28 days to offer to make amends under the Act. ~~However, n~~Noting the ongoing harm to our client, and the period of time that has already passed, the offer in this letter is open for **7 days from the date of the letter**.

~~404.99.~~ We look forward to your prompt response, noting that we have briefed senior counsel on Mrs Deeming's behalf to commence the preparation of the pleadings to be filed upon the expiry of the statutory period if a satisfactory resolution cannot be reached between the parties.

~~405.100.~~ We also draw your client's attention to the provisions of the *Civil Dispute Resolution Act 2011* (Cth).

Yours faithfully
COMPANY GILES

Patrick George
(Principal)