

NOTICE OF FILING

Details of Filing

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Registry: VICTORIA REGISTRY - FEDERAL COURT OF AUSTRALIA



A handwritten signature in blue ink that reads 'Sia Lagos'.

Registrar

Important Information

This Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

The date of the filing of the document is determined pursuant to the Court's Rules.

Affidavit of Sarah Henderson

VID 1023 of 2023

Federal Court of Australia
District Registry: Victoria
Division: General

MOIRA DEEMING

Applicant

JOHN PESUTTO

Respondent

Affidavit of: **Sarah Henderson**

Address: [REDACTED]

Occupation: Senator for Victoria

Date: 27 ^{MAY} ~~March~~ 2024
SH CB

I, Sarah Henderson, say on oath:

1. I am a Senator of the Australian Parliament.

Background

2. In 2013, I was elected to the House of Representatives as the federal member for Corangamite and re-elected for a second term in 2016. After a redistribution of electoral boundaries which made the seat notionally Labor, I was defeated at the general election in 2019. I was then chosen by the Parliament of Victoria in September 2019, under section 15 of the Commonwealth Constitution, to represent that state in the Senate. I was subsequently elected as a senator for Victoria in 2022.
3. I began my professional career as a broadcast journalist and presenter with the Seven, Nine and Ten networks and ABC-TV, before joining Allens Arthur Robinson in Melbourne as a solicitor. This led to a staff attorney role with News Corporation in

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[Version 3 form approved 02/05/2019]



New York, the establishment of my own media consultancy, and management roles with Network Ten and National Indigenous TV.

4. In 1996, I won a Walkey Award for Best Coverage of a Current Story and the Golden Quill Award, both distinguished journalists' awards.
5. In 1999, after graduating with a Bachelor of Laws (Hons) from Monash University, I was admitted to the Supreme Court of Victoria as a solicitor and barrister.
6. I have known Mr John Pesutto (**Mr Pesutto**) for many years. After he became Victorian Opposition Leader and Leader of the Victorian Parliamentary Liberal Party in December 2022, I worked closely with Mr Pesutto and his office in relation to a significant issue in the Geelong community.
7. I first met Mrs Moira Deeming (**Mrs Deeming**) in my capacity as patron senator for the federal seat of Gorton where she was a local Liberal Party member. In March 2022, I provided Mrs Deeming with a reference for her nomination for Liberal Party preselection for Gorton. I supported another female candidate in the Liberal Party preselection for Western Metropolitan Region which was won by Mrs Deeming prior to her election to the Victorian Parliament in November 2022.

Initial report

8. On the evening of 19 March 2023, I became aware of a media report published on social media which stated that Mr Pesutto was planning to expel Mrs Deeming from the Victorian Parliamentary Liberal Party.
9. The media report entitled "Liberals move to expel Moira Deeming over neo-Nazi rally links" was first published by The Age online at 8.55pm.
10. **Annexed and marked A** is a copy of this online article, which is accessible at the following URL: <https://www.theage.com.au/politics/victoria/liberals-move-to-expel-moira-deeming-over-neo-nazi-rally-links-20230319-p5ctgm.html>.
11. From the media report, I understood Mr Pesutto was seeking to expel Mrs Deeming for attending, on the previous day in front of Parliament House Melbourne, a women's rights rally called "Let Women Speak" because of the rally's alleged links to a neo-Nazi protest held on the front steps of Parliament House at the same time and which involved the performing of the Nazi salute.



12. At 9.34pm, I sent Mr Pesutto the following private and confidential message via Whatsapp:

“John, I am deeply concerned about moves to expel Moira. There’s no suggestion she is linked to the right wing extremists. She is raising concerns about which many women are very concerned. Where is the procedural fairness in this reported decision?”

13. The ‘message info’ associated with the Whatsapp message shows the message was delivered at 21:34 and read at 21:37 on 19 March 2023.

14. **Annexed and marked B** is a copy of the message.

Media statement

15. A short time later, I became aware of a second social media post by The Age reporter about the proposed expulsion of Mrs Deeming which included a media statement issued by Mr Pesutto that evening.

16. **Annexed and marked C** is a copy of the social media post, which is accessible at the following URL:

<https://x.com/sumeyyailanbey/status/1637390809132851201?s=46>.

17. At 10.04pm, I sent Mr Pesutto the following private and confidential message via Whatsapp:

“I have just read your statement John. I have not spoken to Moira but I did see her tweet when she made clear that this protest was hijacked by these extremists. You may have more information than is available publicly, but prima facie this does not look good in my humble opinion.

John I don’t share all of Moira’s views as you would probably know but we are a broad church...surely it would have been better to announce an internal investigation which would have given Moira the opportunity to get proper advice, and more time for you and the broader party to consider the ramifications in the cold light of day.”

18. The ‘message info’ associated with the Whatsapp message shows the message was delivered at 22:04 on 19 March 2023 and read at 10:01am on 20 March 2023.



19. **Annexed and marked D** is a copy of the message.

ABC media reports

20. On 22 March 2023, I was contacted by the ABC's Patricia Karvelas. In a text message sent at 9.33am, she stated:

"Hi Sarah some of your colleagues tell me you are concerned about Deeming being expelled would love to speak to you on air tomorrow."

21. **Annexed and marked E** is a copy of this text message.

22. After I declined to comment, Ms Karvelas and her staff published a story on ABC News online entitled "Federal Liberal senator Sarah Henderson pressures Victorian Liberal leader not to dump MP Moira Deeming." The report stated in part:

"The ABC understands Senator Henderson has personally sent Mr Pesutto messages urging him not to take action against Ms Deeming. The ABC has not seen the messages but has been briefed by sources who have been told by Mr Pesutto about Ms Henderson's intervention."

23. **Annexed and marked F** is a copy of this online article, which is accessible at the following URL: <https://www.abc.net.au/news/2023-03-22/sarah-henderson-intervenes-over-moira-deeming/102129408>.

24. This story was also reported by Ms Karvelas on her radio program.

Subsequent events

25. Following the ABC media reports, I was shocked to be called a Nazi sympathiser and other similar false and defamatory comments on social media by reason of my reported support for Mrs Deeming. These comments included: *'Well at least you have the Nazis in Victoria on your side, Senator'*.



C. Biancatisano

26. Since this time, I have maintained regular contact with Mrs Deeming. She has frequently told me how she has suffered extreme distress, anxiety, and trauma as a result of being falsely accused of having an association with or supporting neo-Nazis and Nazi sympathisers and as a result of being suspended and then expelled from the Victorian Parliamentary Liberal Party. She has also told me this episode of her life has had a terrible impact on her husband and their four children including fears for her and her family's safety.

Sworn by the deponent
at Geelong
in Victoria ^{MAY}
on 27 March 2024
^{2/11 CB}

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Signature of deponent

Before me:

C. Bran Brancatisano

Signature of witness

CHARLOTTE RUBY BRANCATISANO

Name and qualification of witness

CHARLOTTE RUBY BRANCATISANO

[REDACTED]
An Australian legal practitioner
within the meaning of the
Legal Profession Uniform Law (Victoria)