

## NOTICE OF FILING

### Details of Filing

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*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.



# SCHEDULE A

## DETAILED FACTUAL CHRONOLOGY AND SUMMARY OF EVIDENCE

### 1. Prior to 2022

#### *Mr Pesutto*

- 1.1. Mr Pesutto was elected in the seat of Hawthorn in the 2014 Victorian State Election, and given the Shadow Ministry position of Shadow Attorney-General.<sup>1</sup> Mr Pesutto lost his seat in the 2018 State Election.<sup>2</sup>

#### *Mrs Deeming*

- 1.2. In September 2014, Mrs Deeming unsuccessfully ran as the Liberal candidate in the seat of St Albans in the 2014 Victorian State Election.<sup>3</sup>
- 1.3. In 2018, she unsuccessfully ran for preselection for the Party's second position for the Western Metropolitan seat in the Victorian Legislative Council for the 2018 State Election.<sup>4</sup>
- 1.4. Mrs Deeming served as a Councillor in the Local Government for the City of Melton from 2020 until 2022.<sup>5</sup>
- 1.5. In September 2020, Mrs Deeming said in an interview that the Safe Schools program, which has as its stated purpose assisting schools to foster a safe environment that is supportive and inclusive of LGBTQI+ students,<sup>6</sup> was 'putting paedophilic garbage in our school curriculums' and said the people behind the program were 'paedophilia apologists'.<sup>7</sup> Mrs Deeming acknowledged she had done so.<sup>8</sup> In this interview she was wearing an 'adult human female' t-shirt, a phrase that is attributable to Kellie-Jay Keen. Mrs Deeming also wrote about Mrs Keen in a September 2020 article.<sup>9</sup> Mrs Deeming had previously written about Safe Schools, calling it 'sleazy, unnecessary drivel'.<sup>10</sup>

<sup>1</sup> CBB Tab 30, page 327 [2] (Affidavit of John Pesutto dated 27 May 2024).

<sup>2</sup> CBB Tab 30, page 327 [3] (Affidavit of John Pesutto dated 27 May 2024).

<sup>3</sup> CBB Tab 1, page 4 [17] (Affidavit of Moira Deeming dated 27 May 2024).

<sup>4</sup> CBB Tab 1, page 4 [18] (Affidavit of Moira Deeming dated 27 May 2024).

<sup>5</sup> CBB Tab 1, page 4 [20] (Affidavit of Moira Deeming dated 27 May 2024).

<sup>6</sup> T117.9-12 (Deeming XXN).

<sup>7</sup> Exhibit R96, CBC Tab 46, minute 37:35; Exhibit R544 lines 17-19.

<sup>8</sup> Exhibit R96, CBC Tab 46.

<sup>9</sup> Exhibit R97, CBC Tab 47.

<sup>10</sup> Exhibit R84, CBC Tab 9.

*Mrs Keen*

- 1.6. Mrs Keen is the founder of LWS and calls herself ‘a global women’s rights advocate’ who is ‘unapologetic’ and ‘unafraid’.<sup>11</sup>
- 1.7. On or about 19 February 2019, Mrs Keen spoke at the Mot Dag Conference in Norway where she was pictured with Hans Jørgen Lynglimt Johansen.<sup>12</sup> Material readily accessible in the public domain is to the effect that Johansen is a far-right political activist of the Alliance-Alternative for Norway Party, with a reported history of public anti-Semitic and racist statements. For example, on 30 November 2018, Johansen is reported to have called the Holocaust ‘a carefully constructed control mechanism through a guilt narrative’.<sup>13</sup> Johansen is also reported to have made comments including: ‘The Jews put us to the test, that’s what they do, that’s their task. That is the metaphysical role of the Jews’.<sup>14</sup> Johansen has also reportedly expressed support for apartheid in South Africa.<sup>15</sup> Johansen was reported to have been investigated for hate crimes in 2018.<sup>16</sup>
- 1.8. On 23 September 2019, Mrs Keen participated in a Facebook Livestream with Sheronna Bishop or ‘America’s Mom’.<sup>17</sup> That participation took place three days after Bishop was reported to have posted a video with Proud Boys members.<sup>18</sup> The Proud Boys are, notoriously, a far-right, neo-fascist militant organisation that promotes and engages in political violence,<sup>19</sup> and which has been designated a terrorist group in Canada.<sup>20</sup>
- 1.9. In October 2019, Mrs Keen appeared in a video interview with Jean-François Gariépy.<sup>21</sup> Mrs Keen’s interview with Gariépy was reported by *Pink News* on 15 October 2019.<sup>22</sup> The *Pink News* article called Gariépy a ‘white nationalist’ and ‘prominent far right YouTuber who calls for a “white ethno-state” who had made videos with neo-Nazi Richard Spencer’. Material readily accessible in the public domain is to the effect that Gariépy is a French-Canadian white supremacist, and founder of YouTube channels including ‘The Public Space’, which was identified by the Anti-Defamation League as containing and promoting anti-Semitic and white

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<sup>11</sup> Exhibit R318, CBC Tab 698.

<sup>12</sup> Exhibit R89, CBC Tab 31.

<sup>13</sup> Exhibit R87, CBC Tab 29.

<sup>14</sup> Exhibit R106, CBC Tab 64, Exhibit R107, CBC Tab 65.

<sup>15</sup> Exhibit R86, CBC Tab 28.

<sup>16</sup> Exhibit R88, CBC Tab 30.

<sup>17</sup> Exhibit R91, CBC Tab 36.

<sup>18</sup> Exhibit R98, CBC Tab 48.

<sup>19</sup> Exhibit R316, CBC Tab 692.

<sup>20</sup> CBC Tab 697. The parties have agreed this fact: document entitled ‘Parties agreed position as to Applicant’s objections to Respondent’s Tender List’, no. 36.

<sup>21</sup> Exhibit R92, CBC Tab 39.

<sup>22</sup> Exhibit A37.

supremacist content.<sup>23</sup> Gariépy also appears to have interviewed Nick Fuentes,<sup>24</sup> an American far-right political commentator known for his white supremacist, misogynistic, homophobic, antisemitic and Islamophobic views.<sup>25</sup> On 14 September 2018, David Duke participated in a 2 hour 5 minute video with Gariépy on ‘The Public Space’.<sup>26</sup> Duke is a former grand wizard of the Ku Klux Klan whose reported white supremacist and antisemitic views are in the public domain.<sup>27</sup>

- 1.10. On or about 7 June 2020, Mrs Keen posted ‘Pridestapo’ on the social media site Spinster with an image of a Nazi eagle insignia and a swastika superimposed over a rainbow.<sup>28</sup>
- 1.11. On 2 July 2020, Mrs Keen participated in a live telephone interview with Richie Allen on the Richie Allen Radio Show. Earlier in the episode Mark Collett was a guest with Allen.<sup>29</sup> Collett is the founder of the UK white nationalist group Patriotic Alternative and reportedly a neo-Nazi political activist.<sup>30</sup>
- 1.12. Mrs Keen was interviewed by Kay Soco of SOCO Films and Kay SOCO Films on or about 22 July 2020<sup>31</sup> and 1 September 2020.<sup>32</sup> SOCO stands for ‘Soldiers of Christ Online’, which is reported to be a far-right network.<sup>33</sup> In her interview of 22 July 2020, Mrs Keen said the following:

However, there is also the fact that paraphilias like transsexualism, transgenderism; they are often accompanied by another paraphilia. It is very uncommon for a man just to have one. So that’s another link with - and the most common is paedophilia. So that would be another link.

...

Paedophiles will gain easier access to children because of the trans agenda.

- 1.13. The *Macquarie Dictionary* defines a ‘paraphilia’ as a ‘preference for or addiction to unusual sexual practices’. Mrs Keen’s statement is both offensive and nonsensical: transgenderism is not a paraphilia. Mrs Deeming said she did not agree to Mrs Keen’s statements ‘at all’; ‘that

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<sup>23</sup> Exhibit R90, CBC Tab 34.

<sup>24</sup> Exhibit R85, CBC Tab 23.

<sup>25</sup> Exhibit R100, CBC Tab 54.

<sup>26</sup> The parties have agreed this fact: document entitled ‘Parties agreed position as to Applicant’s objections to Respondent’s Tender List’, no. 4.

<sup>27</sup> Exhibit R83, CBC Tab 8.

<sup>28</sup> Exhibit R93, CBC Tab 41.

<sup>29</sup> The parties have agreed this fact: document entitled ‘Parties agreed position as to Applicant’s objections to Respondent’s Tender List’, no. 8.

<sup>30</sup> Exhibit R289, CBC Tab 616.

<sup>31</sup> Exhibit R94, CBC Tab 43.

<sup>32</sup> Exhibit R95, CBC Tab 45.

<sup>33</sup> Exhibit R136, CBC Tab 143, page 663.

makes no sense: transgenderism is about which gender you identify as, it's not a sexuality';<sup>34</sup> and paedophilia and trans issues 'are separate issues'.<sup>35</sup>

- 1.14. The WayBack Machine indicates that as at 30 January 2021, Mrs Keen's profile picture on Spinster was a picture of a Barbie doll wearing a Nazi uniform.<sup>36</sup> Mrs Deeming has described this as a 'poor distasteful joke'.<sup>37</sup>

## **2. March 2022**

- 2.1. On 26 March 2022, Mrs Deeming unsuccessfully sought endorsement as the Liberal candidate for the Federal Electoral division of Gorton.<sup>38</sup>
- 2.2. Ms Georgie Crozier, the Member for Southern Metropolitan Region and a member of the Leadership Team, was a member of the Party's Administrative Committee and tasked with voting on which of the two candidates were to be pre-selected to campaign for the electoral division of Gorton.<sup>39</sup> Mrs Deeming won the majority of the vote, but before she was formally endorsed there was an intervention from the office of then Prime Minister, the Hon. Scott Morrison, which advised the Party's Administrative Committee that under no circumstances was the Committee to endorse Mrs Deeming, on the basis that her views on some social issues were considered too extreme and politically risky.<sup>40</sup> The intervention from the Prime Minister's Office resulted in the rejection of her candidacy.

## **3. May 2022**

- 3.1. In May 2022, Mr Bernie Finn, who had been elected to the Victorian Legislative Council as a Liberal Party candidate for the Western Metropolitan Region, was expelled from the Party. His expulsion was prompted by a series of inflammatory social media posts over many months during the leadership of Mr Michael O'Brien and Mr Matthew Guy, including some relating to abortion and another comparing then Victorian Premier, Daniel Andrews, to Adolf Hitler.<sup>41</sup>

## **4. June 2022**

- 4.1. On 22 June 2022, *Woman's Place UK* published an article stating, among other things that Mrs Keen made racist comments on social media throughout 2017 and 2018, including:<sup>42</sup>

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<sup>34</sup> T185.40-45 (Deeming XXN).

<sup>35</sup> T186.1-3 (Deeming XXN).

<sup>36</sup> Exhibit R80, CBC Tab 2; Exhibit R99, CBC Tab 51.

<sup>37</sup> Exhibit R42, CBC Tab 473, page 2384.

<sup>38</sup> CBB Tab 30, page 330 [16] (Affidavit of John Pesutto dated 27 May 2024).

<sup>39</sup> CBB Tab 34, page 410 [6]-[7] (Affidavit of Georgie Crozier dated 27 May 2024).

<sup>40</sup> CBB Tab 34, page 410 [8] (Affidavit of Georgie Crozier dated 27 May 2024).

<sup>41</sup> CBB Tab 30, page 330 [18] (Affidavit of John Pesutto dated 27 May 2024).

<sup>42</sup> Exhibit R17, CBC Tab 68.

- (a) on 3 July 2017 stating ‘A class of 7 year olds just walked past only 2/15 girls weren’t wearing hijab. #ffs #disgusting #islam #sexist #eastonprimarysortitout’;
- (b) on 11 August 2017 stating ‘we say the way men socialised results in certain behaviour but not Muslim men and how they feel about white girls?’ in response to a post stating ‘Hey? What ethnicity and religion are these offenders? Hmmmm. Why isn’t this mentioned I wonder?’ accompanied by a link to a post by Lincolnshire Police regarding an investigation into modern slavery;
- (c) on 16 April 2018 stating ‘Are we allowed to notice where these men are from and question the culture in which they’ve grown? I mean we seem to be able to blame rape culture but not Pakistani/Muslim rape culture’;
- (d) on 16 April 2018 stating ‘No idea. But there are pockets of Bradford where the culture is not British. Like many ex pat communities they hold on to their past culture rather tightly. There was an all boys school that was 99.9% Pakistani Muslim. Awful place for women’; and
- (e) on 25 May 2018 stating ‘Dear UK, it seems we are at a time where you can offend everyone except Muslims and trans women....all the rest of you are expected to take it on the chin. CBA to issue a disclaimer’.

4.2. Separately to this chronology but in relation to Mrs Keen’s social media use, on 2 August in an unknown year, in response to a post sent to her on Facebook containing a link, ‘Estrogen patch for menopause linked to higher heart disease risks’ with the question ‘I wonder what the effect on men is...’, Mrs Keen responded, ‘Hopefully death’.<sup>43</sup> Ultimately, Mrs Deeming did not press any objection to the tender of this Facebook comment for any use, after Mr Pesutto pointed Mrs Deeming and the Court to a video where Mrs Keen admitted to being banned from Facebook for posting this tweet.<sup>44</sup> In those circumstances, and in circumstances where the Court may infer Mrs Keen could not have given any evidence that would assisted Mrs Deeming, the Court should accept that Mrs Keen made this disgraceful post.

## 5. July 2022

5.1. On 23 July 2022, Mrs Deeming was selected by delegates at a preselection convention as the candidate for the Western Metropolitan Region, replacing Mr Finn, at the November 2022 State Election.<sup>45</sup> At the time, there was public controversy surrounding her preselection by

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<sup>43</sup> Exhibit R85, CBC Tab 6.

<sup>44</sup> Document entitled ‘Parties agreed position as to Applicant’s objections to Respondent’s Tender List’, no. 1.

<sup>45</sup> Exhibit R108; CBC Tab 70.

the Liberal Party of Australia (Victorian Division) because of some of the views she had expressed.<sup>46</sup>

- 5.2. On 28 July 2022, the Liberal Party of Australia's Administrative Committee (Victorian Division) met. Ms Louise Staley, former Liberal Member of Parliament for the electorate of Ripon and former State Vice President of the Liberal Party, was in attendance on behalf of the then Leader of the Opposition, Mr Matthew Guy.<sup>47</sup> One of the items of business at this meeting was the endorsement of Mrs Deeming as the Party's lead candidate for the Western Metropolitan Region of the Legislative Council at the 2022 State election.<sup>48</sup>
- 5.3. Although Mrs Deeming had been selected by delegates at the preselection convention, it was open to the Administrative Committee under the Party's Constitution not to endorse her candidacy.<sup>49</sup> In light of the negative media reporting since Mrs Deeming's preselection, which, from Ms Staley's perspective, included reporting of her anti-abortion and anti-transgender views, Ms Staley argued that the Committee should delay making a decision about her endorsement until it could gather further information regarding her suitability.<sup>50</sup> The matter was put to a vote. Ms Staley voted not to endorse Mrs Deeming, as did other members of the Administrative Committee, including the Immediate Past President of the Division, Mr Michael Kroger. Ms Staley was worried about reputational damage to the Liberal brand, and hence its electability, from potential continued poor publicity.<sup>51</sup> Ultimately, Mrs Deeming was endorsed as the Party's lead candidate for the Western Metropolitan Region of the Legislative Council at the 2022 State election.
- 5.4. On 28 July 2022, *The Age* reported on the intervention of then-Prime Minister Scott Morrison's intervention in the pre-selection of Mrs Deeming for the federal seat of Gorton, in the article, 'State Liberal candidate was deemed "too extreme" for Scott Morrison's campaign'.<sup>52</sup> In that article, *The Age* reported:

An anti-abortion candidate for the Victorian Liberal Party who opposes the rights of transpeople was deemed too risky to run as part of former prime minister Scott Morrison's election team this year. Melton City councillor Moira Deeming was preselected on Saturday to replace conservative MP Bernie Finn on the state upper house ticket, months after she was rejected as a candidate for the federal election for the Liberals in the lower house seat of Gorton.

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<sup>46</sup> CBB Tab 30, page 331 [21] (Affidavit of John Pesutto dated 27 May 2024); Exhibit R118, CBC Tab 80; Exhibit R119, CBC Tab 82; Exhibit R120, CBC Tab 82. For further news coverage on the controversy surrounding Mrs Deeming's preselection, see: Exhibits R108–R117, CBC Tabs 70–79.

<sup>47</sup> CBB Tab 41, pages 486–7 [2]–[7] (Affidavit of Louise Staley dated 24 May 2024).

<sup>48</sup> CBB Tab 41, page 487 [8] (Affidavit of Louise Staley dated 24 May 2024).

<sup>49</sup> CBB Tab 41, page 487 [9] (Affidavit of Louise Staley dated 24 May 2024).

<sup>50</sup> CBB Tab 41, pages 487–8 [10]–[11] (Affidavit of Louise Staley dated 24 May 2024); T1193.12-18 (Staley XXN).

<sup>51</sup> CBB Tab 41, page 488 [12] (Affidavit of Louise Staley dated 24 May 2024); T1193.45-46 (Staley XXN).

<sup>52</sup> Exhibit R319, CBC Tab 707.

5.5. The reporting on the intervention of the Prime Minister's Office accords with Ms Crozier's experience of what unfolded at that preselection contest.<sup>53</sup>

## 6. October 2022

6.1. On 12 October 2022, Ms Jones posted a Tweet comparing the use of LGBTI+ flags to the flags used by fascists.<sup>54</sup>

## 7. November 2022

7.1. On or about 5 November 2022, at a Let Women Speak rally in Miami, Mrs Keen provided a platform to a male speaker.<sup>55</sup> Material in the public domain has identified this man as Chris Barcenas,<sup>56</sup> a notorious member of the Proud Boys.<sup>57</sup> This has also been reported by the Australian media.<sup>58</sup> Material readily accessible in the public domain is to the effect that the Proud Boys are a far-right neo-fascist militant organisation that promotes and engages in political violence, and which has been designated a terrorist group in Canada.<sup>59</sup>

7.2. On 26 November 2022, Mr Pesutto and Mrs Deeming were elected to the Victorian Parliament.<sup>60</sup> Mr Pesutto was elected as the member for Hawthorn<sup>61</sup> and Mrs Deeming was elected as the Member for the Western Metropolitan Region.<sup>62</sup>

## 8. December 2022

8.1. In early December 2022, when Mr Pesutto was campaigning to become Leader of the Party, he met with Mrs Deeming over coffee at the Watergardens Hotel in Taylors Lakes in her electorate. During that meeting they had an open discussion about emerging media controversy surrounding her views in relation to transgender and sex-based rights.<sup>63</sup>

8.2. Mr Pesutto encouraged Mrs Deeming to ensure that her position in relation to transgender and sex-based rights was not the only view for which she would become known.<sup>64</sup> Mrs Deeming recalls telling Mr Pesutto that she realised these could be controversial issues.<sup>65</sup>

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<sup>53</sup> CBB Tab 34, page 410 [10] (Affidavit of Georgie Crozier dated 27 May 2024).

<sup>54</sup> Exhibit R122, CBC Tab 86.

<sup>55</sup> Exhibit R124, CBC Tab 92, minute 1:02:57-1:05:00.

<sup>56</sup> CBC Tab 724.

<sup>57</sup> Exhibit R105, CBC Tab 63.

<sup>58</sup> Exhibit R12, CBC Tab 212, page 1438.

<sup>59</sup> CBC Tab 697. The parties have agreed this fact: document entitled 'Parties agreed position as to Applicant's objections to Respondent's Tender List', no. 36.

<sup>60</sup> CBB Tab 30, page 331 [23] (Affidavit of John Pesutto dated 27 May 2024); CBB Tab 1, page 6 [30] (Affidavit of Moira Deeming dated 27 May 2024).

<sup>61</sup> CBB Tab 30, page 327 [4] (Affidavit of John Pesutto dated 27 May 2024).

<sup>62</sup> CBB Tab 1, page 6 [30] (Affidavit of Moira Deeming dated 27 May 2024).

<sup>63</sup> CBB Tab 30, page 331 [24] (Affidavit of John Pesutto dated 27 May 2024).

<sup>64</sup> CBB Tab 30, page 332 [26] (Affidavit of John Pesutto dated 27 May 2024).

<sup>65</sup> CBB Tab 1, page 6 [32] (Affidavit of Moira Deeming dated 27 May 2024).



Mrs Deeming's evidence is that she understood Mr Pesutto's advice to her was that she could advocate on these issues provided she did so respectfully.<sup>66</sup> This meeting was the first of a number where Mr Pesutto, or a member of the Leadership Team, communicated this kind of advice to Mrs Deeming.

- 8.3. On 8 December 2022, there was a Liberal Party room meeting to vote for the Leadership Team. Mr Pesutto was elected leader of the Party. Upon Mr Pesutto being elected as leader, Mrs Deeming heard Mr Pesutto address Party MPs about the values he wanted to bring to the Party, including that he wanted it to be inclusive, accepting of a tolerant and diverse society and credible alternative government for all Victorians.<sup>67</sup>
- 8.4. Mrs Deeming was elected to be the Liberal Party Whip in the Legislative Council.<sup>68</sup> She understood this meant that everything she did in her capacity as an MP and as the Liberal Party whip reflected upon the Party as a whole.<sup>69</sup>

## 9. January 2023

- 9.1. On 10 January 2023, Mrs Deeming wrote to Ms Jones offering to help out with 'Kelly J's tour'.<sup>70</sup>
- 9.2. On or about 15 January 2023 at a Standing for Women event in Newcastle, United Kingdom, a speaker, publicly identified as Lisa Morgan, referred to Adolf Hitler in the following terms: 'Do you know the big lie? The big lie was first described by Adolf Hitler in *Mein Kampf*... The big lie is that trans women are women'. After Ms Morgan left the microphone, instead of condemning her for the association made with Hitler and *Mein Kampf*, Mrs Keen energetically approached the microphone and asked, 'Who's next? Who's next?'.<sup>71</sup>
- 9.3. On 17 January 2023, Mrs Keen and Mrs Deeming exchanged messages arranging a virtual meeting.<sup>72</sup>
- 9.4. On 19 January 2023, Stephen Bates MP sent a letter to the Minister of Immigration, Citizenship and Multicultural Affairs seeking that Mrs Keen's visa to Australia be revoked.<sup>73</sup> He posted screenshots of this letter in a thread on X, which stated that Mrs Keen is a 'prominent transphobe who poses a significant risk to members of the trans and gender diverse

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<sup>66</sup> CBB Tab 1, page 6 [32] (Affidavit of Moira Deeming dated 27 May 2024).

<sup>67</sup> T112.15-30 (Deeming XXN).

<sup>68</sup> CBB Tab 1, page 6 [32] (Affidavit of Moira Deeming dated 27 May 2024).

<sup>69</sup> T112.4-6 (Deeming XXN).

<sup>70</sup> Exhibit R14, CBC Tab 123.

<sup>71</sup> Exhibit R131, CBC Tab 121.

<sup>72</sup> Exhibit R2, CBC Tab 125 pages 610-612.

<sup>73</sup> Exhibit R133, CBC Tab 127.

community of Australia' who partakes in 'hate speech'..<sup>74</sup> The first post in Mr Bates' thread was viewed approximately 550,000 times.

- 9.5. Mr Bates' letter was reported in the *Star Observer* on 20 January 2023, which also reported that Brisbane's LGBTI+ community had started an online petition asking the Immigration Minister to cancel Mrs Keen's visa; that Proud Boys had been speakers at Mrs Keen's rallies; that Mrs Keen had an 'established record of promoting or excusing hate or violence towards trans and other marginalised communities'; and outlined a history of harmful rhetoric and associations..<sup>75</sup>
- 9.6. Mrs Deeming messaged Mrs Keen on 20 January 2023 sending through suggestions about how the Australian tour might occur..<sup>76</sup> including that each event be held on Parliament House steps or as close to those steps as possible..<sup>77</sup> Mrs Deeming provided advice about her understanding of local permit requirements, and suggested Mrs Keen have meetings with MPs inside Parliament House..<sup>78</sup> Mrs Deeming suggested 'Also ideally, you'll also get each of the State MPs to present a submission to Parliament in the same week',<sup>79</sup> by which she had intended to refer to a petition for people from any party to sign a petition..<sup>80</sup>
- 9.7. On 21 January 2023, Mrs Deeming drafted a petition for Mrs Keen to consider..<sup>81</sup>
- 9.8. On 23 January 2023, *Out in Perth* reported on Lisa Morgan having quoting Adolf Hitler at a LWS event hosted by Mrs Keen..<sup>82</sup>
- 9.9. On 24 January 2024, Mrs Deeming wrote to Mrs Keen with a suggestion about the best way to fundraise for Mrs Keen's Australian tour..<sup>83</sup>

## 10. February 2023

- 10.1. On 3 February 2023 Mrs Deeming booked the front steps of Parliament House to be used for the LWS rally on 18 March 2023..<sup>84</sup>
- 10.2. On 4 February 2023, Scottish newspaper *The National* published an article entitled 'Who is Posie Parker? The anti-trans founder of Standing for Women', containing a lengthy history of

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<sup>74</sup> Exhibit R132, CBC Tab 126.

<sup>75</sup> Exhibit R134, CBC Tab 128.

<sup>76</sup> Exhibit R2, CBC Tab 125 pages 613-616; T143.24.

<sup>77</sup> Exhibit R2, CBC Tab 125 page 613; T143.30-34 (Deeming XXN).

<sup>78</sup> T143.39-40 (Deeming XXN).

<sup>79</sup> T143.42-45 (Deeming XXN); Exhibit R2 page 614.

<sup>80</sup> T144.1-18 (Deeming XXN).

<sup>81</sup> T144.32-34 (Deeming XXN).

<sup>82</sup> Exhibit R135, CBC Tab 132.

<sup>83</sup> Exhibit R2, CBC Tab 125.

<sup>84</sup> Exhibit R4, CBC Tab 139.

Mrs Keen's alleged associations and rhetoric.<sup>85</sup> The article stated that Mrs Keen is 'controversial' and 'has faced criticism relating to allegations of racism, white supremacy, and ties to far-right anti-LGBT groups'. It included the following allegations:

- (a) Mrs Keen is a special adviser to the women's rights organisation Women's Liberation Front, which reportedly accepted a \$15,000 donation from Alliance Defending Freedom, which campaigns against abortion and LGBT rights;
- (b) Mrs Keen has written for right-wing magazine the *Spectator* against trans rights;
- (c) the allegations made by *Woman's Place UK* in June 2022 of Mrs Keen posting racist and anti-Muslim Tweets; and
- (d) allegations of 'courting ideas of white supremacy', including associating with Hans Jørgen Lysglimt Johansen, Soldiers of Christ Online and Jean-François Gariépy; using a Barbie doll wearing a Nazi uniform as her social media profile picture; and a speaker at an event of Mrs Keen's quoting Adolf Hitler.

- 10.3. On 9 February 2023, Mrs Deeming agreed to be registered as an additional police contact for the LWS rally.<sup>86</sup>
- 10.4. On 15 February 2023, Mrs Deeming arranged for the sound equipment for the LWS rally.<sup>87</sup>
- 10.5. On 18 February 2023 Mrs Deeming provided Mrs Keen with tables purporting to summarise the way in which different attributes were protected by anti-discrimination laws in the Commonwealth and each State and Territory;<sup>88</sup> and a table of laws regarding change of sex on birth certificates.<sup>89</sup>
- 10.6. On 18 February 2023, *Out in Perth* reported that a petition to revoke Mrs Keen's visa was removed after legal threats.<sup>90</sup>
- 10.7. On the morning of 21 February 2023, Mrs Deeming was absent from a Party room meeting due to a hair appointment.<sup>91</sup>

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<sup>85</sup> Exhibit R136, CBC Tab 143.

<sup>86</sup> Exhibit R2, CBC Tab 125.

<sup>87</sup> Exhibit R137, CBC Tab 148.

<sup>88</sup> T149.27-30 (Deeming XXN); Exhibit R7.

<sup>89</sup> T150.30-31 (Deeming XXN); Exhibit R8.

<sup>90</sup> Exhibit R127, CBC Tab 148.

<sup>91</sup> CBB Tab 34, page 411 [17] (Affidavit of Georgie Crozier dated 27 May 2024).

- 10.8. On the evening of 21 February 2023, Mrs Deeming delivered her inaugural speech in the Victorian Parliament. Mr Pesutto attended and observed Mrs Deeming's speech.<sup>92</sup>
- 10.9. Mrs Deeming's inaugural speech was the subject of widespread negative media coverage, including in *The Age* newspaper and other mainstream publications. At the time, Mr Pesutto read the following articles:
- (a) 'New Liberal MP uses first speech to slam equality "taken to extremes"' (*The Age*, 21 February 2023);<sup>93</sup> and
  - (b) 'Premier hits back at new MP's transgender comment' (*news.com.au*, 22 February 2023).<sup>94</sup>
- 10.10. Mrs Deeming's inaugural speech was also 'quite an issue' in Parliament, requiring Ms Crozier to take a number of points of order to defend Mrs Deeming against attacks by Ministers and members of the Greens about the inaugural speech.<sup>95</sup>
- 10.11. On 22 February 2023, Mrs Deeming and Mr Pesutto exchanged a number of text messages, whereby Mrs Deeming requested to meet that day. They arranged to meet at 7:15pm that evening.<sup>96</sup> Shortly before their scheduled meeting, Mr Pesutto was informed that Mrs Deeming was out at dinner with other Members of Parliament and sent her a message at 7:14pm, which said, 'I'm in my office Moira. Did you still want to meet?'. Mrs Deeming responded at 7:23pm, 'It's ok I'm sorry.'<sup>97</sup>
- 10.12. By Thursday, 23 February 2023, hundreds of documents from Mrs Deeming's Melton City Council email account were obtained and publicly released pursuant to a Freedom of Information request made by Sex Work Law Reform Victoria (**FOI documents**), which was also the subject of negative publicity.<sup>98</sup> Mrs Deeming accepted she had become the subject of controversy when the FOI documents were released<sup>99</sup>, but she claimed not to remember that the then Premier, Daniel Andrews, described her views as 'shameful', or hurtful;<sup>100</sup> and another Labor Minister described her views as 'appalling', and a Greens LGBTIQ+ spokeswoman described her views as 'hateful and harmful'.<sup>101</sup>

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<sup>92</sup> CBB Tab 30, page 332 [29] (Affidavit of John Pesutto dated 27 May 2024).

<sup>93</sup> Exhibit R140, CBC Tab 161.

<sup>94</sup> Exhibit R141, CBC Tab 162.

<sup>95</sup> T1135.1-5 (Crozier XXN).

<sup>96</sup> Exhibit R546.

<sup>97</sup> Exhibit A109, CBC Tab 176.

<sup>98</sup> CBB Tab 30, page 333 [33] (Affidavit of John Pesutto dated 27 May 2024); Exhibit R145, CBC Tab 181.

<sup>99</sup> T129.16-17 (Deeming XXN).

<sup>100</sup> T129.20, 23, 34-35, 37-38 (Deeming XXN). CBC Tab 181 1331-1334.

<sup>101</sup> T130.7-11 (Deeming XXN). CBC Tab 181 1333.

- 10.13. Later that day, Mr Pesutto met with Mrs Deeming and Ms Crozier, in his office adjacent to the Opposition Party Room (**23 February Meeting**). Unknown to Mr Pesutto and Ms Crozier at the time, Mrs Deeming surreptitiously recorded this meeting.
- 10.14. Pausing there, in the space of three days, between 21-23 February 2024, Mrs Deeming had: missed a party room meeting due to a hair appointment; given a controversial inaugural speech eliciting negative reactions from the media and members of parliament; requested a meeting with the Mr Pesutto and then, when he made the time to meet, attended a dinner with others instead; caused another distracting controversy following the release of the FOI documents; then decided to surreptitiously record a meeting with two members of the Leadership Team.
- 10.15. The audio recording of the 23 February Meeting was belatedly discovered by Mrs Deeming in Supplementary Discovery of 8 August 2024. It is consistent with Mr Pesutto and Ms Crozier's affidavit evidence, filed before the recording was discovered by Mrs Deeming. It demonstrates a commendable level of restraint, understanding and willingness to provide guidance and help, given the context outlined in the previous paragraph.
- 10.16. In the meeting, Mr Pesutto explained the political distraction issues regarding Mrs Deeming were having on the Party, saying:
- (a) 'we've got a huge problem';<sup>102</sup>
  - (b) 'I wanted to have an initial conversation to see how we're going to deal with these serious issues because I know that there are deeply held views and I've said to you and said to others that I'd never ask anybody to change their views but this is what we're gonna get hit with every time we go out. I can't send anybody out now without issues around you coming up. Just went out there yesterday to smash Pearson um and the press conference immediately or very soon turned to you. I've gotta go out today and I've gotta face a press pack where I would have liked to have been talking about Danny Pearson resigning. I'm gonna have to put that off';<sup>103</sup>
  - (c) 'I know you'll have something to say on this but the line they're going to run is that we support harmful speech, we hate same sex transgender people, we hate transgender people, we you know we're um we're fiercely opposed to um anyone in that community'..<sup>104</sup>

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<sup>102</sup> Exhibit R72 line 8.

<sup>103</sup> Exhibit R72 lines 12-18.

<sup>104</sup> Exhibit R72 lines 25-28.

- 10.17. The fundamental issue identified by Mr Pesutto was not with Mrs Deeming's views, which he repeatedly explained he would not ask her to change, but:
- (a) how he could 'assure the Victorian community that [the Party] can be a voice for everyone no matter what your background no matter what your sexual preference is';<sup>105</sup> and
  - (b) returning the focus (which had been diverted to Mrs Deeming) to key challenges to the Government, such as the resignation of Mr Pearson.
- 10.18. Mrs Deeming's response was 'you should defend me'. She said if 'If they say what do you think about her transphobic views and you say oh well she has views that are different to mine that will enrage me at no end'.<sup>106</sup>
- 10.19. Mrs Deeming plainly failed to appreciate the political problems her conduct had caused, as it was explained to her by Mr Pesutto and Ms Crozier. At one point, she said 'I'm getting emails of support'. Ms Crozier's response was telling: 'Well that's alright I'm not'.<sup>107</sup>
- 10.20. Mrs Deeming failed to understand what she was being told by Mr Pesutto and Ms Crozier, which was to the effect that the political distraction she had caused could not be solved by getting further into the weeds in relation to her views on sex-based rights. As Mr Pesutto said, 'I think you've gotta live in in the real world Moira'.<sup>108</sup> Ms Crozier explained the difficulty: 'We need to be talking about Pearson. We need to be talking about cost of living'.<sup>109</sup>
- 10.21. Instead of apologising or taking responsibility for causing political damage to the Party, Mrs Deeming remained preoccupied with defending her views,<sup>110</sup> including by suggesting that 'I can get you a row of lesbians to stand around you and back you up in a press conference',<sup>111</sup> in response to which Mr Pesutto patiently responded, 'these things aren't as simple as just putting someone out here or someone to stand with it. It, it's as you well know you've been around politics now a while uh it doesn't quite work like that'.<sup>112</sup>
- 10.22. Mrs Deeming's failure to appreciate the broader political ramifications of her conduct, was a precursor to what happened on 18 and 19 March 2023. It provides context to Mr Pesutto and

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<sup>105</sup> Exhibit R72 lines 43-44.

<sup>106</sup> Exhibit R72 lines 62-63.

<sup>107</sup> Exhibit R72 line 91.

<sup>108</sup> Exhibit R72 line 97.

<sup>109</sup> Exhibit R72 line 103.

<sup>110</sup> Exhibit R72 lines 104-106

<sup>111</sup> Exhibit R72 lines 174-175.

<sup>112</sup> Exhibit R72 lines 178-180.

Ms Crozier's concerns about Mrs Deeming's lack of insight or understanding during the 19 March 2023 Meeting.

- 10.23. Despite complaining during the 23 February 2023 Meeting that Mr Pesutto had not met with her, contemporaneous text messages show that Mr Pesutto had in fact been willing to speak with Mrs Deeming when she asked.<sup>113</sup> In fact:
- (a) On 22 February, Mr Pesutto had arranged to meet with Mrs Deeming the previous evening, but Mrs Deeming had gone out to dinner leaving him waiting.<sup>114</sup>
  - (b) On 23 February, Mr Pesutto's attempt to 'debrief' with her was rebuffed.<sup>115</sup>
- 10.24. Mrs Deeming's 'rebuff' was apparently because she took the view that Mr Pesutto had 'declined to defend' her at the 23 February 2023 press conference.<sup>116</sup> Mrs Deeming asserted Mr Pesutto had failed to properly correct the characterisation of her views in the media as 'extreme'.<sup>117</sup> In fact, however, the post-press conference reporting focused on the fact that Mr Pesutto had refused to condemn Mrs Deeming.<sup>118</sup>
- 10.25. In any event, as Ms Crozier pointed out during the 23 February 2023 Meeting, 'there's just not only John in the leadership team, I'm there I've been reaching out. We're here to help we need to support you. You could have come to Matt [Bach] or me'.<sup>119</sup>
- 10.26. At no point during the 23 February 2023 Meeting did Mrs Deeming mention the Rally or the fact that she was involved in planning and organising it.
- 10.27. In circumstances where the 23 February 2023 Meeting was specifically about the political distractions being caused by Mrs Deeming's actions, and Mrs Deeming had always known that the Rally was likely to be controversial,<sup>120</sup> is inconceivable that Mrs Deeming simply forgot to mention the Rally or her involvement in organising it during this meeting.
- 10.28. The Court should conclude that Mrs Deeming was actively seeking to conceal her involvement in planning the Rally from Mr Pesutto and Ms Crozier because she knew that Mr Pesutto would have asked her not to plan, attend or speak at the Rally given the serious political consequences that would invariably flow from doing so.

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<sup>113</sup> Exhibit A97, CBC Tab 146 pages 669-671; Exhibit A95. CBC Tab 141 pages 658-659.

<sup>114</sup> Exhibit A109, CBC Tab 176 page 1305.

<sup>115</sup> CBB Tab 30, pages 334-5 [40]-[41] (Affidavit of John Pesutto dated 27 May 2024).

<sup>116</sup> T130.21-39 (Deeming XXN).

<sup>117</sup> T131.36-42 (Deeming XXN).

<sup>118</sup> CBB Tab 30, page 334 [39] (Affidavit of John Pesutto dated 27 May 2024).

<sup>119</sup> Exhibit R72, lines 124-125.

<sup>120</sup> T164.46-47 (Deeming XXN).

10.29. On 25 February 2023, Mrs Deeming sent Mr Pesutto a tweet posted by James Newbury, another MP in the Party, suggesting the views Mrs Deeming had apparently expressed in the FOI documents views were not fitting of a modern Victoria.<sup>121</sup>

10.30. By 25 February 2023, Mrs Deeming had:

- (a) been the subject of widespread negative media coverage in *The Age* and other mainstream media publications in relation to her inaugural speech (see 10.9 above);
- (b) been the subject of attacks from members of the Government and the Greens in Parliament in relation to her inaugural speech (see 10.9(a) above);
- (c) been publicly described as 'shameful', 'hurtful'; 'appalling' and 'harmful' by then Premier Andrews and then Minister Pearson and others for her views that were exposed in the FOI documents (see 10.12 above); and
- (d) been publicly criticised by a member of her own party, Mr Newbury MP, for having views that were not fitting of a modern Victoria (see 10.26 above).

10.31. On 26 February 2023, Mrs Deeming exchanged emails with a company to arrange security for Ms Keen for the LWS rally in Melbourne,<sup>122</sup> which Mrs Deeming paid for.<sup>123</sup>

10.32. During a YouTube livestream of a LWS event on 26 February 2023 in London, Mrs Keen said, 'Fascist is a new word for legend'.<sup>124</sup>

## 11. 1–17 March 2023

11.1. On 5 March 2023, an Australian user posted a tweet on X linking to the article in *The National*, which Mr Pintos-Lopez later relied upon and referenced. That tweet was viewed over 100,000 times.<sup>125</sup>

11.2. On 8 March 2023, Mrs Deeming gave a speech in Parliament on International Women's Day. Following her speech and while leaving the Parliamentary Chamber, Mrs Deeming approached Dr Bach and said, 'Sorry. That was the last time'. Dr Bach understood her comments to be an apology for stepping out of line with her speech in a way that was contrary to the interests and stated position of the Party.<sup>126</sup> Dr Bach understood from this interaction initiated by Mrs Deeming that she was 'really clear...on the manner in which she needed to

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<sup>121</sup> CBB Tab 30, page 335 [42] (Affidavit of John Pesutto dated 27 May 2024).

<sup>122</sup> Exhibit R5, CBC Tab 196.

<sup>123</sup> T145.10-20 (Deeming XXN).

<sup>124</sup> Exhibit R151, CBC Tab 192.

<sup>125</sup> Exhibit R28, CBC Tab 716.

<sup>126</sup> CBB Tab 32, page 392 [9] (Affidavit of Matt Bach dated 26 May 2024).



be focusing on issues that the team had determined were particularly important issues, and that in her mind, she hadn't done that appropriately on that occasion'.<sup>127</sup> Dr Bach was not challenged about whether this interaction occurred; he was only challenged about the context in which the interaction occurred. Dr Bach explained that the context was that Mrs Deeming had already had discussions with other members of the Leadership Team and other members of the Party room following her inaugural speech about the need to stay focused on issues that the team had determined were particularly important.<sup>128</sup>

- 11.3. On 10 March 2023, prior to the first of the rallies on the LWS Australian tour, the *Daily Mail* published an article entitled 'Cops on high alert as controversial UK women's rights campaigner who has been slammed as "transphobic" prepares to give speeches on tour of Australia'.<sup>129</sup> It quoted a group called Pride in Protest saying Mrs Keen partakes in 'vile bigotry' and 'far right politics'. It reported that Mrs Keen posed with a campaigner who celebrated Winnie Mandela's death, and has said access to abortion and contraceptives need to be rolled back for children and teenagers. It reported that she has spoken alongside Christopher Barcenas, a member of the Proud Boys. It quoted Mrs Keen as saying, 'In today's money... probably I am a transphobic'. Mrs Deeming could not recall whether she had specifically seen the *Daily Mail* article, but she was aware that media coverage referred to Mrs Keen's presence as transphobic.<sup>130</sup>
- 11.4. On 11 March 2023, the Sydney LWS rally was the subject of an article in *The Weekend Australian*, called 'Protesters clash at anti-trans rally in Sydney' wherein it was reported that members of trans advocacy groups chanted, 'Posie Paker you can't hide, you've got Nazis on your side'.<sup>131</sup>
- 11.5. Also on 11 March 2023, Mrs Deeming posted on social media promoting the Rally on 11 March 2023:<sup>132</sup>

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<sup>127</sup> T907.25-33 (Bach XXN).

<sup>128</sup> T908.20-24 (Bach XXN).

<sup>129</sup> Exhibit R12, CBC Tab 212.

<sup>130</sup> T168.37-44 (Deeming XXN).

<sup>131</sup> Exhibit R338, CBC Tab 717.

<sup>132</sup> Exhibit R16, CBC Tab 215.



- 11.6. On 11 March 2023, in an interview with Joy FM, Dr Bach was asked about Mrs Deeming’s comments that the Safe Schools program had been devised by ‘paedophilia apologists’..<sup>133</sup> Dr Bach repeatedly said in his evidence that it is a toxic, dreadful and common trope to describe transgender people as paedophiles..<sup>134</sup>
- 11.7. On 12 March 2023, Mrs Deeming wrote to Ms Jones offering to provide drinks and nibbles in Parliament for a group of people after the Rally..<sup>135</sup>
- 11.8. On 13 March 2023, the Brisbane LWS rally was the subject of an article in *The Courier Mail*, called ‘Controversial UK activist Kellie-Jay Keen leads Brisbane protest’ in which Mrs Keen was reported as saying she does not ‘think trans is a thing’, and described it as a ‘dirty fetish’ and ‘cult’..<sup>136</sup> The article included quotes from counter-protesters who said the far right ‘turn out in droves to support’ Mrs Keen. It reported links with Proud Boy activists, Holocaust denier Johansen and white supremacist Gariépy.
- 11.9. On 14 March 2023 at 12:15pm, Mrs Deeming emailed the Department of Parliamentary Services in which she said that ‘Police and security services have alerted me to personal and group threats from counter protestors...I need security to be onsite to let me back into parliament in an emergency, and some extra guards if possible’..<sup>137</sup> Despite the existence of a

<sup>133</sup> T909.42-47, 926.16-17, 24-26 (Bach XXN).

<sup>134</sup> T909.44-45, 919.43-44, 925.46-47, 926.14-15, 928.18 (Bach XXN).

<sup>135</sup> Exhibit R14, CBC Tab 123, page 592.

<sup>136</sup> Exhibit R175, CBC Tab 230.

<sup>137</sup> Exhibit R13, CBC Tab 242.

threat that may have required extra security guards and the ability to be rushed back into parliament in an emergency, Mrs Deeming did not inform Mr Pesutto or anyone else in the Leadership Team to alert them to these risks.<sup>138</sup> Mrs Deeming's claim that she didn't inform Mr Pesutto or any member of the Leadership Team about this risk because they 'were not interested in helping me at all whatsoever'<sup>139</sup> should be rejected. By this time, as is evident from the recording of the 19 March Meeting (discussed above), Mrs Deeming had not taken up Ms Crozier's numerous offers of assistance. It is to be inferred that the real reason Mrs Deeming failed to inform Mr Pesutto or any member of the Leadership Team about the risks relating to the Rally is because she didn't want the Leadership Team to know about the extent of her involvement in organising and participating in the event.

- 11.10. On the same day, the Perth rally was the subject of an article in *The West Australian*, called 'LGBTQI in Perth protest over visiting anti-trans activist Kellie-Jay Keen' wherein it was again reported that LGBTQI protesters shouted, 'Posie Parker you can't hide, you have nazis on your side'. The article said:<sup>140</sup>

It is unclear whether the reference to nazis by protesters referred to Ms Keen's appearance in videos with white nationalists or an event she organised in January, at which one of the speakers quoted Adolf Hitler...

- 11.11. Mrs Deeming said that she did not follow the media coverage or have any awareness about what occurred at the LWS rallies in Brisbane, Sydney and Perth before the LWS rally in Melbourne.<sup>141</sup> Mrs Deeming's complete disregard for what happened at the LWS rallies in other major cities *before* she attended and spoke at the Rally in Melbourne was utterly reckless in circumstances where she knew that everything she did in her capacity as an MP and as Whip reflected on the Liberal Party as a whole.<sup>142</sup>
- 11.12. Again, without any concern for what had transpired at the other LWS rallies, or how they had been perceived by the public, on 14 March 2023, Mrs Deeming posted the following invitation:<sup>143</sup>

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<sup>138</sup> T176.31-33 (Deeming XXN).

<sup>139</sup> T176.23-25 (Deeming XXN).

<sup>140</sup> Exhibit R330, CBC Tab 718.

<sup>141</sup> T192.2-7; T192.30-34; T192.42-46 (Deeming XXN).

<sup>142</sup> T112.4-6 (Deeming XXN).

<sup>143</sup> Exhibit R15, CBC Tab 243.



11.13. Mrs Deeming denied being aware of an allegation before the Rally that Mrs Keen had spoken alongside a number of figures in far-right groups, including a member of the Proud Boys, Chris Barcenas, who was said to have been deposed by the US government due to his presence at the 6 January 2021 Capitol riots.<sup>144</sup> She denied knowledge of any such association.<sup>145</sup> At one point, Mrs Deeming denied knowledge of the Proud Boys *at all*.<sup>146</sup> Mrs Deeming denied being aware, prior to 18 March 2023, that previous LWS events had been attended or grate-crashed by elements of the extreme right<sup>147</sup> or neo-Nazis.<sup>148</sup>

11.14. Mrs Deeming gave evidence that the first time she became aware that Mrs Keen had appeared in a video with Gariépy was when she was informed of that by Mr Pesutto.<sup>149</sup> She also said that that was the first time she had heard there were public allegations that Mrs Keen had shared platforms with far-right extremists.<sup>150</sup> She denied having seen any mainstream

<sup>144</sup> T170.21-26 (Deeming XXN).  
<sup>145</sup> T171.35-37 (Deeming XXN).  
<sup>146</sup> T229.17 (Deeming XXN).  
<sup>147</sup> T172.41-43 (Deeming XXN).  
<sup>148</sup> T173.1-7 (Deeming XXN).  
<sup>149</sup> T182.30-39 (Deeming XXN).  
<sup>150</sup> T183.6-8 (Deeming XXN).

publications in Australia linking Mrs Keen with Proud Boys activists, Johansen and Gariépy.<sup>151</sup>

11.15. All of that evidence was incorrect. On 17 March 2023, the night before the Rally, Mrs Deeming began to be inundated with a flood of tweets on X in reply to her tweet of 14 March 2023 concerning the Rally, warning her of Mrs Keen’s public associations and suggestions she should not go to a ‘nazi rally’ or ‘cozy up with fascists’.<sup>152</sup>

11.16. It is clear from her own tweets in reply that Mrs Deeming had spent quite some time on 17 March 2023 – the day before the Rally – reading and responding to tweets that had put her squarely on notice of a number of Mrs Keen’s public associations.<sup>153</sup>

11.17. For example:

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<sup>151</sup> T191.45-47 (Deeming XXN).

<sup>152</sup> Exhibits R19–26, R333–347, CBC Tabs 722–741.

<sup>153</sup> T224.17-18 (Deeming XXN).

**Drew (blocked by NSN sookybois) Mountford**  
@Lord\_Bogan

Happy to associate with someone who platforms Proud Boys? That particular lad participated in the Jan 6th White House riots, and the Proud Boys are a proscribed terror organisation in both Canada and New Zealand.

Is this REALLY the look you want?

**on a clear day**  
@ICanSeeForever1

**Proud Boy speaking today at Kellie-Jay Keen/Posie Parker Speaking For Women rally in Miami.**



10:46 · 06 Nov 22

7:12 PM · Mar 17, 2023 · 1,679 Views

154

**DOOM**  
@ADifferentDom

Members of parliament probably shouldn't go to nazi rallies tbh

7:18 PM · Mar 17, 2023 · 331 Views

1 7 33

155

**Sophia Jetta**  
@Wer\_ko\_der\_ko

Why do you cozy up to fascists, Moira?

9:33 PM · Mar 17, 2023 · 240 Views

1 16

156

154 Exhibit R19, CBC Tab 724.  
155 Exhibit R20, CBC Tab 725.  
156 Exhibit R21, CBC Tab 728.



**Moira Deeming MP**  
@MoiraDeemingMP

...

Democracy. I guess you're not a fan of that either ;)

10:51 PM · Mar 17, 2023 · 415 Views



5



20



Most relevant



Post your reply

Reply



**facts first** @factsfirstnx · Mar 17, 2023

...

I'm all up for democracy dear, it's your support of open fascism I have a problem with. If you want to know why your party is in shreds, look in the mirror.



3



8



254



**Moira Deeming MP** @MoiraDeemingMP · Mar 17, 2023

...



2



11



1.2K



Show replies



**facts first** @factsfirstnx · Mar 17, 2023

...

And typical Liberal you didn't answer the question. Why are you attending a rally that claims to want to stop the creation of a law that has been in place for over a DECADE in this state?

Are you that daft?



1



1



93



**Moira Deeming MP** @MoiraDeemingMP · Mar 17, 2023

...

You may not realise this, but laws can be amended.



4




1



100



157

 **Moira Deeming MP** @MoiraDeemingMP

So... you're using that as evidence to argue that people don't know the real haters are the rabid misogynists bringing "projectiles" to terrify women out of publicly demanding sex based rights in law... Thank you?!

10:49 PM · Mar 17, 2023 · 669 Views

3 4 21

Most relevant


Post your reply Reply

 **StonefishHugger** @mnmooosi · Mar 18, 2023

The only projectiles will be you torpedoing your own political career

1 2 5 332

You're unable to view this Post because this account owner limits who can view their Posts. [Learn more](#)

 **Moira Deeming MP** @MoiraDeemingMP · Mar 17, 2023

What I've done- along with countless others from all sides of politics- is stand up for reasonable sex based rights regardless of personal cost.

1 2 23 342

. 158  
;-

 **judith.** @bang3r

Nice to see an MP siding with a nazi, these lass have already been in place for a while and... guess what?? Nothing bad happened to women and children because of it. Let people live you goddamn losers.

11:21 PM · Mar 17, 2023 · 38 Views

3

. 159  
;-

157 Exhibit R23, CBC Tab 731.  
158 Exhibit R24, CBC Tab 730.  
159 Exhibit R25, CBC Tab 732.





Drew (blocked by NSN sookybois) Mountfo @Lord\_Boga · Mar 17, 2023 ...

Happy to associate with someone who platforms Proud Boys? That particular lad participated in the Jan 6th White House riots, and the Proud Boys are a proscribed terror organisation in both Canada and New Zealand. Is this REALLY the look you want?



on a clear day  
@ICanSeeForever1

Proud Boy speaking today at Kellie-Jay Keen/Posie Parker Speaking For Women rally in Miami.



10:46 · 06 Nov 22

5 3 63 1.6K



Moira Deeming MP  
@MoiraDeemingMP

Do you have any rational arguments against the sex based rights I'm asking for, or will you just be posting photos of ppl who were near each other instead?

11:25 PM · Mar 17, 2023 · 5,083 Views

27 7 19

160



11.18. When shown tweets of this kind, Mrs Deeming accepted she had been incorrect when earlier giving evidence that she had no prior knowledge of any allegation of association between Mrs Keen and Mr Barcenas of the Proud Boys.<sup>162</sup>

11.19. The night before the Rally, Mrs Deeming was also notified of, and responded to other posts (including some not on her own feed), including in a long series of posts from a person described as an anti-fascist academic and blogger which explained that different groups of anti-trans protestors would be attending Parliament the next day at the same time as a result of Mrs Keen's 'publicity tour'.<sup>163</sup>

11.20. Some of the most relevant parts of that series of tweets and Mrs Deeming's reply to it,<sup>164</sup> include:

<sup>161</sup> Exhibit R340, CBC Tab 736.  
<sup>162</sup> T229.14-24 (Deeming XXN).  
<sup>163</sup> Exhibit R333, CBC Tab 721.  
<sup>164</sup> Exhibit R22, CBC Tab 729.



**Andy Fleming**  
@slackbastard



1/ Two gatherings of anti-trans voices are taking place at the Victorian Parliament tomorrow @ midday.

The first is part of a publicity tour by 'femalist' & micro-influencer 'Posie Parker' (AKA Kellie-Jay Keen-Minshull).

4:24 PM · Mar 17, 2023 · 33.2K Views



17



59



122



2



**Andy Fleming** @slackbastard · Mar 17, 2023



2/ The second has emerged from the remnants of the anti-vaxx, anti-lockdown/#freedumb movement which -- like 'Reclaim Australia' before it -- similarly proclaims its intention to protect children from Them.



2



11



62



3.3K



**Andy Fleming** @slackbastard · Mar 17, 2023



6/ The fuel for this particular, slightly wonky machine is almost invariably publicity. Hence, the more outrageous/sensational/stupid the claims, the better it feeds (insatiable) tabloid appetites.



**Andy Fleming** @slackbastard · Mar 17, 2023



PPS. The success of the US (far-)right in utilising transphobia to mobilise remains unrealised as yet in AUS, but attempts to do the groundwork are certainly being made.

**Andy Fleming** @slackbastard

PPPS. Moira Deeming (Member for Western Metro) will be attending on behalf of the Liberal Party of Australia (Victorian Division).



From abc.net.au

8:09 PM · Mar 17, 2023 · 46.2K Views

10 replies, 19 retweets, 52 likes, 3 bookmarks

**Moira Deeming MP** @MoiraDeemingMP

Having just been informed of your existence & perused your ridiculous posts- I'm going to go ahead & assume that you are slack in many ways, not just with the truth ;)

**Andy Fleming** @slackbastard · Mar 17, 2023

Replying to @slackbastard

PPPS. Moira Deeming (Member for Western Metro) will be attending on behalf of the Liberal Party of Australia (Victorian Division).

[abc.net.au/news/2022-11-0...](https://www.abc.net.au/news/2022-11-0...)

10:24 PM · Mar 17, 2023 · 41.3K Views

34 replies, 17 retweets, 208 likes

11.21. At 12:19am on 18 March 2023 (about 12 hours before her attendance at the Rally), Mrs Deeming posted the following:<sup>165</sup>

<sup>165</sup> Exhibit R338, CBC Tab 734.



11.22. Mrs Deeming did not inform the Leadership Team about these developments or seek advice about whether she should reconsider her involvement in the Rally.<sup>166</sup> Nor did she do any research in response to those warnings, or make any sensible inquiries (for example, of the police or security). Instead, she ploughed on.

11.23. In that context, Mrs Deeming’s protestations in the days,<sup>167</sup> weeks and months after the Rally that she had no ability to foresee the kinds of issues that flowed from her involvement in the Rally cannot be sensibly maintained.

## 12. 18 March 2023

### *The Rally*

12.1. Mrs Deeming arranged for Mrs Keen to be collected from her hotel and to go in a car to Parliament House.<sup>168</sup> Mrs Deeming arrived at the Parliament House car park with Mrs Keen and her two security guards. She acknowledged she did not technically have ‘authorisation’ to take Mrs Keen and her security guards through the Parliament House precinct, but said she did not realise until after the Rally that she was not meant to have taken Mrs Keen and the security guards into the Annex building.<sup>169</sup> Mrs Deeming in fact had a meeting with Mrs Keen in the Annex, also attended by Mr Limbrick of the Libertarian Party.<sup>170</sup>

12.2. Mrs Deeming and Mrs Keen both spoke at the Rally. In Mrs Deeming’s speech, far from being a simple participant who only read a statement from a friend, Mrs Deeming *immediately*

<sup>166</sup> T176.20-33 (Deeming XXN).

<sup>167</sup> Exhibit A2, lines 102-110.

<sup>168</sup> T193.18-21 (Deeming XXN).

<sup>169</sup> CBB Tab 2, page 75 [51] (Second affidavit of Moira Deeming dated 23 July 2024).

<sup>170</sup> T193.36-39 (Deeming XXN).

identified herself as a Member of Parliament; something she did again later in the day in the Video.

12.3. Mrs Keen’s livestream shows that during the Rally, Mrs Deeming also assisted Mrs Keen, liaised with marshals and security guards, held signs in support of the Rally, and cheered and clapped the other speakers.<sup>171</sup> At one point, Mrs Deeming held up a sign bearing the words, ‘Dan Andrews...Destroyer of women’s rights’. Mrs Deeming disagreed ‘entirely’ that was an inappropriate sign for a member of the Party in Mrs Deeming’s position to hold up.<sup>172</sup>

12.4. Ms Jones knew the ‘fash’ were at the Rally by 12:03pm.<sup>173</sup>



12.5. It seems clear from her various tweets later that afternoon that Ms Jones knew the ‘fash’ were neo-Nazis. It also appears both from the face of that tweet, and from tweets on 8 March<sup>174</sup> and replies later that afternoon<sup>175</sup> (which tweets provide context to that 12:03pm tweet) that Ms Jones had previously been told that ‘Proud Boys & other fascist scumbags’ might ‘come’ or had been ‘invited’ or would attend any rally associated with Mrs Keen, and that this was going to make it nigh on impossible women’s rights campaigners to successfully distance themselves from their attendance:



171 Exhibit A137, CBC Tab 253.  
172 T206.16-18 (Deeming XXN).  
173 Exhibit R18, CBC Tab 742.  
174 Exhibit R165, CBC Tab 211.  
175 Exhibit R368, CBC Tab 765.

12.6. The official Let Women Speak X account identified that Nazis were present by 12:07pm.<sup>176</sup>



12.7. Shortly after arriving at the Rally, at approximately 12:14pm, a policewoman approached Mrs Deeming and Mrs Keen and said that a big group from the right wing were agitating the left wing.<sup>177</sup> In cross-examination, Mrs Deeming had no specific recollection of that conversation, but did not deny it took place.<sup>178</sup>

12.8. By 12:38pm, the neo-Nazis were described online as Mrs Keen's fans.<sup>179</sup> By 12:52pm, Mrs Deeming was receiving replies to her tweets squarely associating her with the neo-Nazis.<sup>180</sup>



12.9. Mrs Deeming's 14 March tweet promoting the Rally received numerous responses in the minutes and hours that followed, which associated her with Nazis, including in the period 1:00pm-1:28pm.<sup>181</sup>

<sup>176</sup> Exhibit R346, CBC Tab 743.

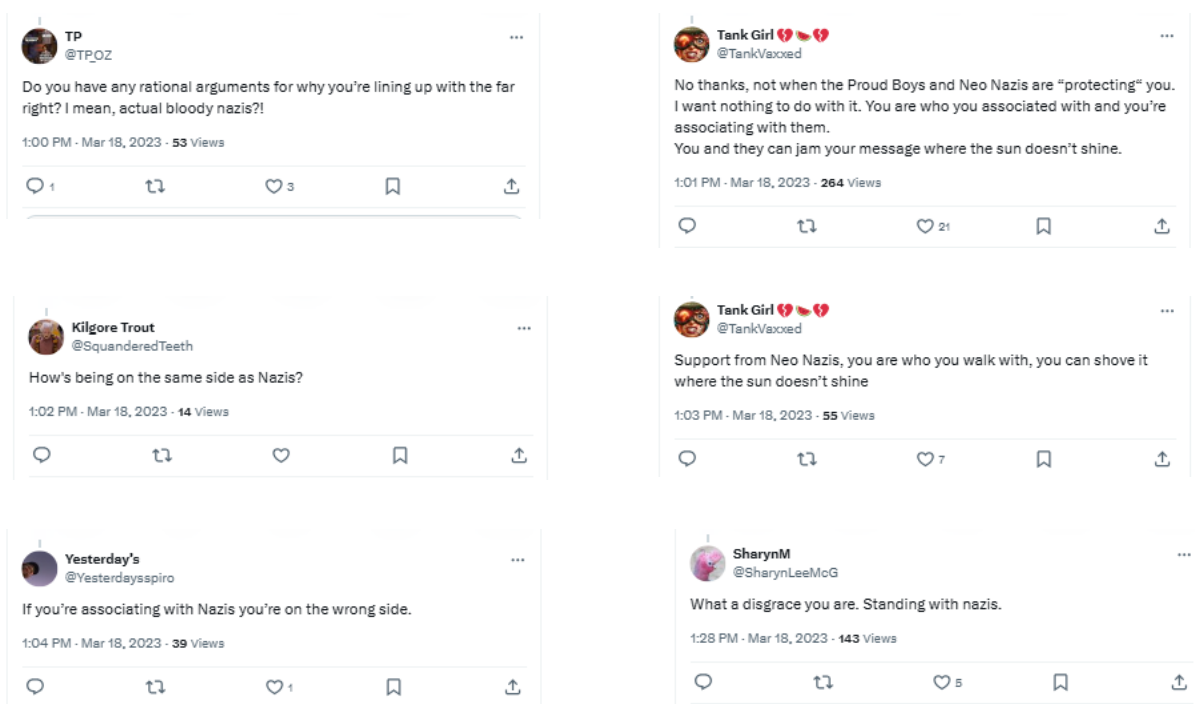
<sup>177</sup> CBB Tab 2 [5] (Second affidavit of Moira Deeming dated 23 July 2024).

<sup>178</sup> T196.37-38 (Deeming XXN).

<sup>179</sup> Exhibit R194 page 1677. See also Exhibit R356 for a tweet in a similar vein at 12:48pm.

<sup>180</sup> Exhibit R348. CBC Tab 745.

<sup>181</sup> Exhibits R350–R354, R356, CBC Tabs 747–751, 753.



12.10. At the start of the Rally, Mrs Keen said she was going to wave at the 'boys' and it 'might make them annoyed'. It is clear from the video that the 'boys' referred to by Mrs Keen were the trans-rights activists across the road from the LWS rally. Mrs Deeming appeared to struggle to understand that this (describing the trans rights activists as 'boys') was undoubtedly a deliberately provocative act targeted at the counter-protesters in attendance, many of whom were clearly trans gender people who identify as women.<sup>182</sup> Mrs Deeming accepted this was a deliberate attempt to stir up the counter protestors, but said 'I just don't know if she was targeting trans and gender diverse people'.<sup>183</sup> Mrs Keen's intentions were clear to any reasonable observer. Mrs Deeming's feigned ignorance should be disbelieved.

12.11. Mrs Deeming disagreed that it was a further provocation for Mrs Keen to say (or rather shout) 'no man has a vagina, no woman has a penis, there is no such thing as non-binary, and transitioning children is profound abuse'.<sup>184</sup> Mrs Keen made statements to this effect on three occasions during the Rally.<sup>185</sup> Pausing there, Mrs Deeming gave evidence that she agreed with these sentiments expressed by Mrs Keen,<sup>186</sup> which are, by definition, anti-transgender sentiments.

<sup>182</sup> T201.30-47 (Deeming XXN).

<sup>183</sup> T202.3-4 (Deeming XXN).

<sup>184</sup> T206.34-37 (Deeming XXN).

<sup>185</sup> Exhibit A137, CBC Tab 253 minute 15:29, 52:21, 1:36:25; Tab 260 minute 55:54.

<sup>186</sup> T206.39 (Deeming XXN).



- 12.12. At the Rally, Mrs Keen also sang a bizarre song ('Oh what a day it has been, what a rare mood I'm in, why it's almost like being a ...'), and asked the Rally attendees to complete the verse by screaming out the word 'TERF'..<sup>187</sup>
- 12.13. TERF is an acronym for 'trans exclusionary radical feminist'. It is inherently an anti-trans term. Mrs Deeming accepted as much: she said she finds it an insulting term because it hurts, excludes and is divisive against trans gender people..<sup>188</sup> To have people scream the word TERF out, in the presence of persons advocating for the rights of trans gender individuals, as Mrs Keen did at the Rally, was plainly an act of anti-trans provocation.
- 12.14. Then, a number of speakers at the Rally, without demur from Mrs Deeming or Mrs Keen, made transphobic comments, including:
- (a) Stassja Frei, who hosts the YouTube series 'TERF talk down under' with Ms Jones and who was photographed with the neo-Nazis, said in her speech, 'you might think I've dressed up as a transgender activist. And you're right, I have. But don't be deceived by this unicorn horn. It is actually a female penis. A female penis sticking out of my head. My pronouns are dick/head'..<sup>189</sup>
  - (b) Katherine Deves said in her speech, 'a man wants to pop on a frock, knock yourself out Dave, that's fine'..<sup>190</sup>
  - (c) An unnamed speaker said in her speech 'there's no such thing as a trans child'; 'cynical Danny and his government and the ABC use the lesbian, gay and bisexuals as the perfect shield for the TQ+ coo-coo in the nest'<sup>191</sup> and 'trans women are just plain old men'<sup>192</sup>
- 12.15. On the Rally being anti-trans, Mr Southwick said:<sup>193</sup>

In my view, that particular rally was an anti-trans rally. That's – that's the way I saw that. It was targeting a specific group of people. And you asked me my views? Well, my views fall short of attending or supporting any rally that is against any group of people.

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<sup>187</sup> Exhibit A137, CBC Tab 253 minute 14:10.  
<sup>188</sup> T203.14-17 (Deeming XXN).  
<sup>189</sup> Exhibit A137, CBC Tab 253 minute 1:19:50-1:20:15.  
<sup>190</sup> Exhibit A137, CBC Tab 253 minute 39:33-39:38.  
<sup>191</sup> Exhibit A137, CBC Tab 253 minute 49:22-49:36.  
<sup>192</sup> Exhibit A137, CBC Tab 253 minute 51:44-51:47.  
<sup>193</sup> T1041.44-47 (Southwick XXN).

- 12.16. Mrs Deeming did not remember the Rally well.<sup>194</sup> Her memories of it were disjointed.<sup>195</sup> She said she had not watched Mr Fernando's footage of the Rally,<sup>196</sup> but later said she has watched some of that footage on fast-forward 'mostly to see where the Nazis had been'.<sup>197</sup> She had watched Mrs Keen's livestream footage on fast-forward that day.<sup>198</sup> She did not know if she heard counter-protestors shout 'Posie Parker, you can't hide, you've got Nazis on your side'.<sup>199</sup> Mrs Deeming asserted the fact that the 'DESTROY PAEDO FREAKS' flag appeared behind a 'protect the children' sign 'proves they're not with us'.<sup>200</sup>
- 12.17. It is clear from the footage of the Rally that what Mrs Deeming calls the 'Protect the Children rally' is in fact a small and disjointed group of protesters. The footage taken by Mr Fernando captures a man with a megaphone in the vicinity of where Mrs Deeming says the Protect the Children rally were saying, 'We are here to protect the children... We are here to protect the women. We have been protesting here every week for the last three years'.<sup>201</sup> This reveals the true identity of the Protect the Children rally as the last remnants of the anti-lockdown and anti-vaccine protesters that gained notoriety in Melbourne during the COVID-19 pandemic, but have since dwindled in number and faded into insignificance despite regular, Saturday protests. This is further demonstrated by promotions for the Protect the Children rally being posted in Facebook groups called 'Millions March against Mandatory Covid Vaccination',<sup>202</sup> and concerned with ending 'Masks', 'Mandates' and 'vax Passports'.<sup>203</sup>
- 12.18. It is preposterous to suggest that the neo-Nazis attended the Rally on 18 March 2023 to support these people. They could have done so any other week, but they did not. What drew the neo-Nazis to the steps of Parliament House on 18 March 2023 was the same thing that drew hundreds of other people, both in support of and against the cause: Mrs Keen and the internationally notorious and controversial LWS movement.
- 12.19. The neo-Nazis were not there in opposition to the Rally. In fact, it is clear they supported the Rally. As Mr Sewell said after the Rally, the neo-Nazis were not 'initially... allowed in to the rally'.<sup>204</sup> However, subsequently, as Mrs Deeming has said in her pleadings,<sup>205</sup> the police allowed the neo-Nazis to enter the cordoned off area in front of Parliament House. This is also

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<sup>194</sup> T196.31-33, T199.44-45 (Deeming XXN).

<sup>195</sup> T196.41-42 (Deeming XXN).

<sup>196</sup> T210.8 (Deeming XXN).

<sup>197</sup> T266.31-32 (Deeming XXN).

<sup>198</sup> T211.29 (Deeming XXN).

<sup>199</sup> T217.34-35 (Deeming XXN).

<sup>200</sup> T213.14 (Deeming XXN).

<sup>201</sup> CBC Tab 255, minute 2:19-2:34.

<sup>202</sup> Exhibit A127, CBC Tab 234.

<sup>203</sup> Exhibit A122, CBC Tab 222.

<sup>204</sup> Exhibit R525, CBC Tab 929.

<sup>205</sup> Reply, [2.4(ix)]: CBA Tab 4, page 152.

made clear by Mr Fernando's footage of the Rally.<sup>206</sup> The Rally took place in the cordoned off area, and those in opposition to the Rally were not allowed into this area and were separated by lines of police. There was initially a line of police between the neo-Nazis and the Rally, but the police withdrew this line and sent the officers elsewhere when it was clear that the neo-Nazis had no issue with the Rally and were instead antagonising the counter-protesters.

12.20. The neo-Nazis' support of the Rally is further revealed by a disgraceful ideological alignment between Mrs Deeming, Mrs Keen, Ms Jones, LWS, and the neo-Nazis. All have drawn connections between the LGBTIQ+ community – in particular, trans people – and paedophilia.

12.21. At about 12:36pm, the leader of the neo-Nazis, Thomas Sewell, made an abhorrent speech from the steps of Parliament House, in which he said:<sup>207</sup>

We are here to destroy all that are destroying our children. We are not here to conserve. We are revolutionaries. What that means is, that it is not good enough for the politicians to allow this to happen. It is not good enough for the schools to teach sodomy and globalism to our children. The reason why we are here is because it is not good enough what is currently going on under our political solution...

It is our belief that revolution is coming. It is our belief that these communists, paedophiles and trannies have infiltrated every single institution of this country, across the West. They are not just coming for your children. They are coming for everyone. They do not breed. They have castrated themselves, chemically, psychologically and spiritually. We wish for the survival and preservation of our people. We are not here to have a conversation with these people. We are not here to make a compromise with these communists. We are not here to be nice and friendly. We are revolutionaries and we are here to destroy the sick and rotten society that has left us all out to dry.

12.22. As Sewell spoke, a row of about 20 neo-Nazis lined up on the steps of Parliament House, some holding a banner bearing the words 'DESTROY PAEDO FREAKS'. The neo-Nazis repeatedly performed the Nazi salute both on the steps of Parliament House, and then on Spring Street as they departed.

12.23. The conflation of trans people and paedophiles by the neo-Nazis was consistent with Mrs Keen's public statement, in the video she recorded for Soldiers of Christ Online, that trans gender people are often paedophiles.<sup>208</sup> At least one of the trans people present understood (perfectly reasonably, we submit) the neo-Nazis to be inciting genocide of the trans community.<sup>209</sup>

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<sup>206</sup> Exhibit R180, CBC Tab 255.

<sup>207</sup> Exhibit R180, CBC Tab 255 minute 55:24.

<sup>208</sup> Exhibit R94, CBC Tab 43 minute 2:53–3:13.

<sup>209</sup> Exhibit R218, CBC Tab 355.

- 12.24. Sewell’s speech, and the banner, were obviously anti-trans in nature. The neo-Nazis lined up to face in the direction of the trans rights protesters. The reference to ‘trannies’ was plainly a derogatory reference to trans gender people, as was the reference to people who have ‘castrated themselves’.
- 12.25. The reference to the teaching of sodomy in schools bore an eerie echo to Mrs Deeming’s assertion that the Safe Schools program, which has as its stated purpose assisting schools to foster a safe environment that is supportive and inclusive of LGBTQI+ students,<sup>210</sup> ‘promotes anal sex’ to children.<sup>211</sup>
- 12.26. As Dr Bach explained,<sup>212</sup> and is well known, it is a tired trope that members of the LGBTI+ community are paedophiles. Such a trope was attributed to Mrs Deeming in Dr Bach’s interview with Joy FM referred to at [11.6] above, when Dr Bach was asked about Mrs Deeming’s comments that the Safe Schools program had been devised by ‘paedophilia apologists’.<sup>213</sup> It is also consistent with Mrs Keen’s public statement, in the video she recorded for Soldiers of Christ Online, that transgender people are often paedophiles, referred to at [1.12] above.
- 12.27. Dr Bach's vivid evidence was that he would expect anyone to be immediately able to see the possibility of linkages being made between the Rally and the neo-Nazis.<sup>214</sup> He said it is ‘beyond’ him how one could not see the linkages that would be made.<sup>215</sup> Such linkages would be extraordinarily toxic.<sup>216</sup> The Andrews Government had a track record of being able to portray linkages between Liberal Members of Parliament and ‘nutty elements’ at protests.<sup>217</sup> Given even the faint possibility of a linkage being made between the Rally and the neo-Nazis, Dr Bach would expect any member of the Parliamentary Liberal Party team ‘would turn and run in the opposite direction as fast as their legs would carry them’.<sup>218</sup>
- 12.28. Mr Southwick explained the obvious fact that the reference to ‘PAEDO FREAKS’ was not strictly about paedophiles:<sup>219</sup>

if that was the case, we would all be there. We would all be on the steps of Parliament. We would all be standing up against paedophiles. 100 per cent, we would. That’s not

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<sup>210</sup> T117.9-12 (Deeming XXN).  
<sup>211</sup> T123.10 (Deeming XXN).  
<sup>212</sup> T919.42-44; T925.45-47.  
<sup>213</sup> T909.42-47, 926.16-17, 24-26 (Bach XXN).  
<sup>214</sup> T918.3-4 (Bach XXN).  
<sup>215</sup> T925.13-14 (Bach XXN).  
<sup>216</sup> T919.6 (Bach XXN).  
<sup>217</sup> T920.16-18 (Bach XXN).  
<sup>218</sup> T917.25-27 (Bach XXN).  
<sup>219</sup> T1020.31-35 (Southwick XXN).

what this was about. That is absolutely not what this – not what this is about. It was pretty clear what this was about, in my mind.

12.29. It should have been clear to Mrs Deeming that the neo-Nazis attended in order to support the Rally, or there was a significant risk they would be perceived to have done so, for the following reasons:

- (a) At the start of the Rally, Mrs Deeming and Mrs Keen were told by a police officer that a fairly big group from the right wing were at the Rally and were agitating the left wing quite significantly.<sup>220</sup>
- (b) The LWS official X account noted the presence of Nazis at 12.07pm, well before the Rally commenced.
- (c) The neo-Nazis' physical proximity to the Rally, performing the Nazi salute on the northern side of the steps of Parliament while the Rally occurred only metres away on the southern side, as shown by the footage of the Rally.
- (d) The neo-Nazis being on the Rally side of police lines keeping the Rally attendees separated from the trans rights counter-protesters.
- (e) The neo-Nazis' ideological position, as stated on their sign 'DESTROY PAEDO FREAKS', which aligned with that of the Rally, as explained above.
- (f) The counter-protestors repeatedly and loudly chanting, 'Posie Parker, you can't hide, you've got Nazis on your side', which Mrs Keen herself acknowledged in a speech at the Rally.<sup>221</sup>
- (g) The warnings Mrs Deeming had received prior to and on the day of the Rally that Mrs Keen's rallies attracted far-right elements and that she had been publicly associated with far-right groups such as the Proud Boys and neo-Nazis.

12.30. At some stage, Mrs Deeming noticed that the neo-Nazis were inside the buffer zone. She says she was horrified, froze and thought the police line had been breached and that they were going to be attacked. If correct, none of that is captured in any of the videos, which appear to show the attendees at the Rally being indifferent to the presence of the neo-Nazis as they walked down Spring Street. Mrs Deeming said the police did not seem to be worried by the neo-Nazis and were talking with them, and the neo-Nazis were not getting closer to and did not seem to show any interest in the Rally, so she returned her focus towards the Rally. She

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<sup>220</sup> Exhibit A137, CBC 253, minute 8:03.

<sup>221</sup> Exhibit R180, CBC 255, minute 01:02:57-01:05:00.

did not recall seeing their sign and did not see anyone from the Rally interacting with them, including taking photos of and with them.<sup>222</sup> Stassja Frei, one of the attendees and anti-trans speakers at the Rally (and a person publicly associated with Ms Jones as the co-host of her show ‘TERF talk down under’), posed for photographs in front of the neo-Nazis. Photos of her doing so began circulating online almost immediately, including in response to Mrs Deeming’s own ‘disappointed’ tweet.<sup>223</sup>

- 12.31. Mrs Deeming said she heard a big commotion and saw the police ushering the neo-Nazis between the Rally and the counter-protesters, towards the south exit along Spring Street. She said she was horrified and offended but was also confused and relieved they were gone.<sup>224</sup> Mrs Deeming said she was not sure they were Nazis because she had not seen any Nazi insignia and ‘there was a strangeness about them’.<sup>225</sup> She said she was only informed after the Rally that the neo-Nazis had performed the Nazi salute on the steps of Parliament.<sup>226</sup>
- 12.32. Mrs Deeming said the Rally finished early.<sup>227</sup> She remained present throughout this time. She did not call out the neo-Nazis’ behaviour at the Rally and did not leave the Rally until it concluded.

***Mr Southwick calls Mrs Deeming***

- 12.33. At about 2:30pm on 18 March 2023, Mr Southwick, Deputy Leader of the Opposition, called Mrs Deeming. Mrs Deeming agreed that during that phone call:
- (a) Mr Southwick said words to the effect that:
- (i) he had seen footage of Nazis who had turned up, and done a Nazi salute;<sup>228</sup>
  - (ii) he had seen Nazis performing a salute on Spring St;<sup>229</sup>
  - (iii) it was a very serious matter;<sup>230</sup>
  - (iv) Mrs Deeming needed to denounce the Neo-Nazis and distance herself from them,<sup>231</sup> as did Mrs Keen;

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<sup>222</sup> CBB Tab 2 page 77 [59] (Second affidavit of Moira Deeming dated 23 July 2024).  
<sup>223</sup> CBB Tab 2, page 77 [59] (Second affidavit of Moira Deeming dated 23 July 2024).  
<sup>224</sup> Exhibit R411, CBC Tab 810.  
<sup>225</sup> CBB Tab 1, page 11 [47] (Affidavit of Moira Deeming dated 27 May 2024).  
<sup>226</sup> CBB Tab 2, page 77 [61] (Second affidavit of Moira Deeming dated 23 July 2024).  
<sup>227</sup> CBB Tab 2, page 77 [63] (Second affidavit of Moira Deeming dated 23 July 2024).  
<sup>228</sup> T218.2-3 (Deeming XXN).  
<sup>229</sup> T218.24-25 (Deeming XXN).  
<sup>230</sup> T218.27 (Deeming XXN).  
<sup>231</sup> T218.29-30 (Deeming XXN).

- (v) Mrs Deeming needed to get a media statement out urgently;<sup>232</sup>
  - (vi) I can help you, but I wasn't there. I don't know the context. I can't talk about your event. I can help you, but it has to be your statement, not mine;<sup>233</sup>
- (b) Mr Southwick offered to help Mrs Deeming;<sup>234</sup>
  - (c) Mrs Deeming responded that she would talk about the matter with Mrs Keen but she couldn't make Mrs Keen do a statement.<sup>235</sup>
- 12.34. Mrs Deeming claimed she told Mr Southwick she did not think she could make a statement due to some limitation preventing new MPs from doing so,<sup>236</sup> including because she did not have the necessary templates. Mr Southwick's evidence was that Mrs Deeming did not suggest she was unable to make a statement herself due to some limitation preventing new MPs from doing so,<sup>237</sup> and he was left with the impression that Mrs Deeming would prepare a statement denouncing and distancing herself and the Rally from the neo-Nazis.<sup>238</sup>
- 12.35. That Mrs Deeming instructed a staff member to start drafting a statement,<sup>239</sup> the draft of which was on Mrs Deeming's letterhead, supports Mr Southwick's account of that phone call. In any event, Mrs Deeming could have, but did not, follow up on Mr Southwick's offer of assistance. Nor did she approach any other member of the leadership team, or the Party's communications apparatus, to do what Mr Southwick had directed her to do.
- 12.36. Instead, of drafting a statement herself, Mrs Deeming appears to have attended a post Rally function, then gone back onto X and started blocking at least some of the people who were by then posting negative things about her, linking these events to her controversial views.<sup>240</sup>
- 12.37. While Mrs Deeming was ignoring Mr Southwick's advice, by no later than 4:06pm on 18 March 2023, *The Australian* and/or *news.com.au*<sup>241</sup> had published articles describing Mrs Keen as an 'anti-trans speaker', said that her 'fans' were throwing the Nazi salute, and commented that they attended to 'support' Mrs Keen. They had also published a photograph of Mrs Deeming in company with Mrs Keen at the Rally, which became the subject of much upset later on.

<sup>232</sup> T219.5-6 (Deeming XXN).

<sup>233</sup> T219.25-27 (Deeming XXN).

<sup>234</sup> T219.42 (Deeming XXN).

<sup>235</sup> T219.35-36 (Deeming XXN).

<sup>236</sup> T220.5-7 (Deeming XXN).

<sup>237</sup> CBB Tab 40, page 472 [5(a)] (Second affidavit of David Southwick dated 19 July 2024).

<sup>238</sup> CBB Tab 39, page 455 [10] (Affidavit of David Southwick dated 27 May 2024).

<sup>239</sup> T288.2-3 (Deeming XXN).

<sup>240</sup> T179.16 (Deeming XXN); Exhibit R376, CBC Tab 774.

<sup>241</sup> Exhibit R27, CBC Tab 773.

- 12.38. Mrs Deeming was not sure if she was aware of this article at the time,<sup>242</sup> but given it had her photo in it she felt she would have remembered had she seen it, as she would have been ‘furious’ at the association between the women at the Rally, including herself and Mrs Keen, with the neo-Nazis.<sup>243</sup> She thought she must have been aware that mainstream media were saying the neo-Nazis had gone to the steps of Parliament House in support of the LWS Rally,<sup>244</sup> but she was not sure if she knew that before she sat down to record the Video.<sup>245</sup>
- 12.39. Politicians began to comment on the events of Rally in the course of the afternoon. The Member for Macnamara in the Federal Parliament, Josh Burns, a Labor member, had posted on X, in which he referred to an ‘ugly alliance’ between ‘anti trans bullies and neo-Nazis’. He said ‘both groups seek to bully and blame minority groups in their dark ideology’.<sup>246</sup> Mr Burns saw a commonality of dark ideological views between those at the LWS Rally (comprising anti-trans bullies) and the neo-Nazis. He obviously did not consider that the neo-Nazis were there to prosecute some other agenda such as denouncing paedophilia.
- 12.40. By the afternoon of 18 March 2023, the Rally and the neo-Nazis were the subject of media reporting, including the following articles:
- (a) article published in *Out in Perth* entitled ‘Kellie-Jay Keen event attracts supporters making Nazi salutes’;<sup>247</sup>
  - (b) by 4:06pm *The Australian* and *news.com.au*<sup>248</sup> had reported the article noted above;<sup>249</sup>
  - (c) article published in *SBS News* entitled ‘Nazi salutes performed on steps of Victorian parliament as protesters clash over trans rights’;<sup>250</sup>
  - (d) article published in *Pink News* entitled ‘Anti-trans Posie Parker supporters give Nazi salutes and chant “white power”’;<sup>251</sup>
  - (e) article published in *Q News* entitled ‘Australia 2023: NAZIs join TERFs on city streets’;<sup>252</sup>

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<sup>242</sup> T238.45 (Deeming XXN).

<sup>243</sup> T239.40-45; T140.25-30, 44-45 (Deeming XXN).

<sup>244</sup> T239.1-9 (Deeming XXN).

<sup>245</sup> T239.11-14 (Deeming XXN).

<sup>246</sup> Exhibit R31, CBC Tab 786.

<sup>247</sup> Exhibit R198, CBC Tab 286.

<sup>248</sup> Exhibit R27.

<sup>249</sup> Which appears to have been reproduced in *The Australian*: Exhibit R189

<sup>250</sup> Exhibit R193, CBC Tab 280.

<sup>251</sup> Exhibit R194, CBC Tab 281.

<sup>252</sup> Exhibit R195, CBC Tab 282.



- (f) article published in *Yahoo! News* entitled 'Disturbing scenes as neo-Nazis and protestors clash in Melbourne';<sup>253</sup>
- (g) article published in *Daily Mail Australia* entitled 'Dramatic scenes as anti-trans protestors throw Nazi salutes at LGBTQI activists as "transphobe" UK speaker continues her controversial tour of Australia';<sup>254</sup> and
- (h) article published in *XYZ News* entitled 'Australia says no to groomers'.<sup>255</sup>

12.41. None of those publications were in any doubt that the Rally was anti-trans in nature, or that the neo-Nazis had attended in support of the Rally and its anti-trans aims.

12.42. On social media, an avalanche of comments began which:

- (a) associated Mrs Deeming with the Rally and the neo-Nazis;
- (b) associated Mrs Deeming with Mrs Keen; and
- (c) called upon Mr Pesutto and the Party more generally to take action against Mrs Deeming.

12.43. Comments were posted by persons with wide followings on political issues, such as Aaron Smith and Rob Baillieu, who posted the following:<sup>256</sup>

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<sup>253</sup> Exhibit R196, CBC Tab 283.

<sup>254</sup> Exhibit R197, CBC Tab 284.

<sup>255</sup> Exhibit R28/A143, CBC Tab 285.

<sup>256</sup> Exhibit R183, CBC Tab 268; Exhibit R420, CBC Tab 819.

**Aaron Smith**  
@AaronSmith333

Will [@JohnPesutto](#) take action against Moira Deeming?

Instead of making Deeming Whip in the LC, he should've removed her from the party.

Moira is embracing 🇺🇦 this garbage and attending events with Neo Nazis.

This is why young voters have abandoned your party John.

It'll be there. Who will join me to listen to women? @NatHutchins

Self ID is a danger to women and children, it allows males in all women's spaces. If you want women and girls to have female only spaces come and have your say. We must protect female only crisis centres, changing rooms, sports, prisons and groups. Come and have your say.

WWW.FEMINISTFORRESPONSE.COM  
KELLY-JAY KEEN PRESENT

**LET WOMEN SPEAK**  
MELBOURNE  
March 18, 2023  
11-2PM  
PARLIAMENT HOUSE STEPS  
sponsored by

6:31 PM · Mar 14, 2023 · 33.7K Views

Clash in Melbourne in response to controversial 'Let Women Speak' event

The clash between transgender rights protesters and neo-Nazis in Melbourne today occurred in response to the "Let Women Speak" event held in Melbourne today.

The event was hosted by controversial anti-trans rights figure from the UK, **Kelly-Jay Keen**, who is currently touring Australia.

The protest in Melbourne came after Keen's events in Sydney and in Adelaide last week were met with clashes between anti- and pro-trans rights activists. Keen is due to travel to Hobart on Tuesday and Canberra on Thursday before heading to New Zealand.

In January, Greens MP **Stephen Bates** wrote to Australia's immigration minister asking him to revoke Keen's visa. Bates wrote on Twitter at the time:

Today, I wrote to the Immigration Minister and called on him to revoke the visa of a prominent transphobe who poses a significant risk to members of the trans and gender diverse community of Australia.

There's no place for hate speech in this country. I won't be sharing their news because I don't want to amplify their hate speech. The Immigration Minister has the power to revoke his Government's decision to allow this individual spread hateful views within our community.

4:38 PM · Mar 18, 2023 · 14.8K Views

122 Reposts 5 Quotes 343 Likes

**Rob Baillieu**  
@rebaillieu

Liberal MP [@MoiraDeemingMP](#) attended a far right anti-trans rally today attended by a large group of black shirted neo-nazis

[@JohnPesutto](#) must show leadership and expel her from the Liberal party immediately. Fascism and transphobia have no place in Australia #auspol #springst

7:23 PM · Mar 18, 2023 · 230.3K Views

488 864 2.9K 19

12.44. At 4:41pm on 18 March 2023, following the Rally, Jones published a post on X which read, ‘Nazis and women want to get rid of paedo filth. Why don’t you?’ (**Jones tweet**).<sup>257</sup> The Jones tweet was part of an exchange, which read in full:



12.45. Mrs Deeming’s case appears to be that the Jones tweet, in context, is unobjectionable. Counsel for Mrs Deeming suggested in cross-examination of Mr Pesutto that the tweet ‘pointed out that Nazis did not like paedophiles’..<sup>258</sup>

12.46. Mr Pesutto rejected the various attempts to attribute a more benign interpretation to the Jones tweet..<sup>259</sup> He was clear on his understanding, and the likely public understanding of the Jones tweet. He explained:

- (a) I considered it to be grossly offensive, and I didn’t want the Liberal Party anywhere near it..<sup>260</sup>

<sup>257</sup> Exhibits A144–145, CBC Tabs 287–8.

<sup>258</sup> T597.23 (Pesutto XXN).

<sup>259</sup> T701.12-15 (Pesutto XXN).

<sup>260</sup> T687.31-32 (Pesutto XXN).

- (b) It's clearly a slur against members of the LGBTI community. I can't read it any other way..<sup>261</sup>
- (c) There is a reason the Nazis turned up with a banner that said, "Destroy paedo freaks". It's common in this area of debate for transgender people to be vilified as paedo filth or paedo freaks. There is no question in my mind that this tweet was referring to members of the transgender community, and I didn't want, as a leader, your Honour, the Victorian Liberal Party anywhere near or in any way connected with the tweet or the person who posted the tweet. I wanted to be distanced from it..<sup>262</sup>
- (d) ...the tweet itself is clearly referring to transgender people..<sup>263</sup>
- (e) I would describe it as being an odious statement that was consistent with what the Nazis, on the steps of Parliament, had displayed..<sup>264</sup>
- (f) ...it concerned me greatly in my role, your Honour, that somebody would post a tweet like that which seemed to equate the views of the LWS rally with the views of Nazis..<sup>265</sup>
- (g) The issue at the heart of the matter in respect of the Jones tweet was equating the views of the LWS rally with the views of Nazis, and I wanted that tweet distanced from us..<sup>266</sup>

12.47. Mr Pesutto's interpretation was, we submit, not only open, but the obvious meaning of the Jones Tweet. His interpretation was shared by all other members of the Leadership Team and Mr Pintos-Lopez.

12.48. Mr Pintos-Lopez accepted that the literal meaning of the Jones tweet was to the effect that even Nazis don't like paedophilia. However, Mr Pintos-Lopez explained that, in context, he understood Ms Jones' reference to paedo filth to be a reference to trans people 'because it came hot off the heels of the rally'..<sup>267</sup>

12.49. When Mr Southwick was challenged by the cross-examiner about the context of the Jones tweet, he said that the tweet was 'offensive enough' and it 'said everything about the connection between the Nazis and why they were there, and the fact that, instead of calling

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<sup>261</sup> T687.35-36 (Pesutto XXN).  
<sup>262</sup> T687.39-45 (Pesutto XXN).  
<sup>263</sup> T688.3-4 (Pesutto XXN).  
<sup>264</sup> T701.4-5 (Pesutto XXN).  
<sup>265</sup> T701.8-10 (Pesutto XXN).  
<sup>266</sup> T701.26-28 (Pesutto XXN).  
<sup>267</sup> T1239.1-5 (Pintos-Lopez XXN).

them out, there were organisers of the rally prepared to quote Nazis. And I don't care what anybody's cause is, you don't take support from Nazis'..<sup>268</sup>

- 12.50. Even Mrs Deeming accepted this as an open interpretation when it was explained to her in the course of the 19 March 2023 meeting..<sup>269</sup> Neil Mitchell appeared to have no difficulty coming to the same interpretation when Mr Pesutto read the content of the Jones Tweet out to him during the 3AW Interview..<sup>270</sup>
- 12.51. Contrary to the submissions advanced on behalf of Mrs Deeming, the context in which the Jones Tweet was posted (reproduced in [12.44] above) makes the position worse, not better.
- 12.52. In that exchange, the two X users engaging with Ms Jones (Lilah TheyPG and Kenji the Orthodox Heretic) were asserting that the neo-Nazis had attended the Rally 'to see you' and because they 'agree with you'. By 'you', they were obviously referring to Ms Jones and those participating in the LWS Rally. The statement that the neo-Nazis 'were there because they agree with you' was an assertion that the neo-Nazis had attended because they agreed with the aims of the LWS Rally.
- 12.53. It was put to Mr Pesutto in cross-examination that the Jones tweet, 'reading it on its own...appears to be a slur against paedophiles'..<sup>271</sup> While Mr Pesutto rejected that, the vice in Mrs Deeming's case lies in the proposition that was put to Mr Pesutto; the Jones tweet ought not be read *on its own*. The Jones tweet must be interpreted having regard to all of the surrounding circumstances.
- 12.54. When that context is understood, there is no room left for doubt about how Ms Jones' retort will have been reasonably understood:
- (a) The Rally was an anti-trans rally, at which (i) the Rally attendees were arguing that trans gender people who identify as women are not women, trans gender people who identify as men are not men; and that there is no such thing as a non-binary person; (ii) Mrs Keen sang a song and asked her supporters to adopt the term TERF (an insulting and divisive anti-trans term) while provoking the trans rights protesters in attendance; and (iii) various speakers made derogatory and offensive speeches about trans people.

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<sup>268</sup> T1020.5-12 (Southwick XXN).

<sup>269</sup> Exhibit A2 lines 332–333. Exhibit A227, minute 25:40.

<sup>270</sup> CBA Tab 8, minute 2:55-3:19 (Audio recording of the '3AW interview' (as defined at [8] of the SOC).

<sup>271</sup> T687.34-35 (Pesutto XXN).

- (b) The neo-Nazis were there as a vanguard to support the Rally, to express common cause with Mrs Keen and to protect those attending the Rally. They did so by their banner and Sewell's appalling conflation of trans gender people with paedophiles.
  - (c) The two X users engaging with Ms Jones were expressing the view that the neo-Nazis were there because they agreed with the 'women'; that is, with the anti-trans sentiments expressed by those at the Rally. The statement, 'they were there because they agree with you', in particular, was a statement that the Nazis were present because they agreed with the anti-trans sentiments being expressed at the Rally.
  - (d) Ms Jones, by her tweet, then responded to *that context*. Her response will have been reasonably understood as an assertion that the Nazis and the women were at one *in their reason for being at the Rally*. The reference to getting rid of 'paedo filth' was then reasonably understood as a reference to 'getting rid of' trans gender people.
- 12.55. Ms Jones was not called to give evidence, despite being in Mrs Deeming's camp and being physically present in Court for much of the trial. It is not necessary, at the end of the day, however, to reach a concluded view as to Ms Jones' subjective intention in respect of her tweet.
- 12.56. The relevant issue is the way in which the Jones tweet was apt to be understood, and was in fact understood, by Mr Pesutto, the other members of the Leadership Team, and even Mrs Deeming after it was explained to her at the 19 March Meeting.
- 12.57. Whether or not the Jones tweet is reasonably open to another interpretation is beside the point; the relevant point is that the tweet gave rise to the concern properly and honestly expressed by Mr Pesutto and the Leadership Team at the 19 March meeting, an interpretation ultimately accepted by Mrs Deeming at that meeting, and that there was in view of that interpretation an urgent need for Mrs Deeming to distance herself from her association with Ms Jones in order to protect the Party.

***Mrs Deeming posts her alleged 'condemnation'***

- 12.58. Mrs Deeming failed to denounce the neo-Nazis unequivocally and promptly. Instead, among other things, at 6:03pm on 18 March 2023, Mrs Deeming posted a tweet that condemned the conduct of Victoria Police at the Rally, and targeted 'hordes of TRAs' (trans-rights activists), rather than the neo-Nazis.<sup>272</sup>
- 12.59. Her tweet, on which she places significant reliance as a 'denunciation' was as follows:

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<sup>272</sup> Exhibit A142, CBC Tab 275.



**Moira Deeming MP** ✓  
@MoiraDeemingMP

...

Disappointed with @VictoriaPolice, who let a bunch of masked men into the LWS buffer zone, terrifying women who were just trying to speak about their rights. Police managed to stop hordes of TRAs, but somehow could only walk masked men past us they did a horrible Nazi salute. 🇩🇪

6:03 PM · Mar 18, 2023 · 267.2K Views

- 12.60. That tepid tweet was, we submit, a pitiful response to the events of the day. It was a world away from what Mr Southwick had directed Mrs Deeming to do, and from what others, such as Mr Burns, Mr Southwick and Mr Battin, and in short order Mr Andrews and Mr Bandt, said about the events of the day..<sup>273</sup>
- 12.61. Mr Southwick said he was expecting a ‘full statement’, not a tweet..<sup>274</sup> When challenged as to the difference between the two, Mr Southwick said that a media statement ‘would be calling out the specifics of what happened’..<sup>275</sup> and contain ‘a lot more than [the tweet] in terms of the severity of what happened on the day’..<sup>276</sup> Mr Woff gave evidence that a ‘tweet is very different to a formal statement’ and that he doesn't consider them in the same category..<sup>277</sup>
- 12.62. Mrs Deeming's tweet, even taken at its highest, amounts to nothing more than a statement that the women were terrified and the men in black performed a salute which was horrible. She failed even to identify the neo-Nazis for what they were, despite seeing them perform a Nazi salute, being informed by Mr Southwick they were Nazis, being in company with other organisers who had identified them as Nazis, and having reviewed the Fernando footage of the neo-Nazis on the steps of Parliament House before posting her tweet.
- 12.63. Mrs Deeming’s suggestion that she did not want to denounce the men in black as Nazis until she was sure who they were does not withstand any scrutiny.
- 12.64. Mr Southwick’s evidence on this point was simple, powerful and unimpeachable: ‘people performing a Nazi salute and goosestepping are Nazis’..<sup>278</sup>
- 12.65. People repeatedly performing a Nazi salute on the steps of Parliament House, while carrying a banner reading ‘DESTROY PAEDO FREAKS’, do not need the benefit of any doubt. Mrs Deeming’s response – a tweet criticising the police and trans-rights activists, before describing

<sup>273</sup> Exhibit R186, CBC Tab 271 (Burns); Exhibit A141, CBC Tab 274 (Battin and Southwick); Exhibit R30, CBC Tab 293 (Bandt); Exhibit R32, CBC Tab 301 (Andrews).

<sup>274</sup> T1026.6-7 (Southwick XXN).

<sup>275</sup> T1026.25-26 (Southwick XXN).

<sup>276</sup> T1026.31-32 (Southwick XXN).

<sup>277</sup> T1170.14-18 (Woff XXN).

<sup>278</sup> T1032.42.

the neo-Nazis as ‘masked men’ doing ‘a horrible Nazi salute’ with a puerile emoji – was not a serious denunciation - an interpretation reinforced by what was then said by Mrs Deeming and the other organisers in the Video.

*Mrs Deeming participates in the Video*

12.66. On the evening of the Rally, at approximately 7:50pm but in any event after Mrs Deeming’s 6:03pm tweet, Mrs Deeming, together with Mrs Keen, Ms Jones and Ms Deves recorded the Video which was subsequently uploaded to YouTube..<sup>279</sup>

12.67. During the Video:

- (a) Mrs Deeming, Mrs Keen, Ms Jones and Ms Deves drank champagne from flutes in a display of celebration in reference to what they considered to be the success of the Rally.
- (b) Mrs Keen described the chat as ‘TERF talk down under’ and described the day as ‘exceptionally interesting’, following which Mrs Deeming, Ms Jones and Ms Deves laughed and smiled..<sup>280</sup> The adopting of the acronym TERF at the start of the video was another acknowledgment by Mrs Keen of the trans exclusionary, or anti-trans, nature of the Rally, a matter which Mrs Deeming did not seek to distance herself from in any way, despite telling the Court that she considers the term insulting, hurtful exclusionary and divisive..<sup>281</sup>
- (c) Mrs Deeming described the Rally as a ‘fun day’,<sup>282</sup> an extraordinary way to characterise it given Mr Southwick having told her she needed to distance herself from what had happened, the presence of the neo-Nazis, and Mrs Deeming’s subsequent insistence that she spent much of the day terrified of being attacked.
- (d) Ms Jones referred to alleged violent trans rights activists in attendance, to which Mrs Keen responded, ‘if someone comes and poses a risk to women, I’m kinda alright with a little bit of violence...proportionate violence’..<sup>283</sup>
- (e) Mrs Keen stated they were told that the people in black occupying the Parliament House steps were Antifa members..<sup>284</sup> (even though they self-evidently were not and

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<sup>279</sup> Exhibit R37, CBC Tab 893; Exhibit R38 (Transcript); T.1199.40.

<sup>280</sup> Exhibit R38 at 0:00-0:38.

<sup>281</sup> T203.14-17 (Deeming XXN).

<sup>282</sup> Exhibit R38 at 4:01-4:13.

<sup>283</sup> Exhibit R38 at 4:35-4:58.

<sup>284</sup> Exhibit R38 at 5:21-5:48.



were obviously neo-Nazis, and had been identified as such by the official LWS X account at 12.07pm), while Mrs Deeming nodded in apparent agreement.

- (f) Mrs Keen then referred to the need to ‘talk about the elephant in the room’, referring to the attendance of the neo-Nazis at the Rally.<sup>285</sup>
- (g) In response, Mrs Deeming said ‘they did a Nazi salute and that was horrifying but, you know, that was only a split second...’<sup>286</sup> Mrs Deeming was wrong and must have known she was wrong when she said it was ‘only a split second’ because, by that time, Mrs Deeming had reviewed the Fernando footage for the specific purpose of seeing ‘where the Nazis had been’<sup>287</sup> before recording the Video. The neo-Nazis had been present for well over 30 minutes, not a split second, and had not only done a Nazi salute as they were leaving, but had lined up on the steps of Parliament House and unfurled a disgraceful banner.
- (h) Mrs Deeming then said:
  - (i) ‘why didn’t you tell the Nazis to leave? ... well there were no Nazi symbols on them’;<sup>288</sup> and
  - (ii) until they did the Nazi salute, Mrs Deeming thought the neo-Nazis were Antifa or trans rights activists.<sup>289</sup>

12.68. During the Video, Mrs Keen, Ms Jones and Ms Deves speculated that the neo-Nazis were either trans rights activists or police dressed up (during which Mrs Deeming did not demur).

<sup>290</sup>

12.69. The Video participants otherwise failed to acknowledge the gravity or seriousness of the neo-Nazis’ presence at the Rally, including by:

- (a) Mrs Deeming laughing and suggesting the Nazi salute was as ‘if they were saying hello’;<sup>291</sup>
- (b) Ms Jones referring to the Nazi element as ‘the “Nazis” in inverted commas’;<sup>292</sup>

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<sup>285</sup> Exhibit R38 at 10:13.  
<sup>286</sup> Exhibit R38 at 12:11-12:24.  
<sup>287</sup> T.266.31-33 (Deeming XXN).  
<sup>288</sup> Exhibit R38 at 12:43-12:55.  
<sup>289</sup> Exhibit R38 at 12:43-12:55.  
<sup>290</sup> Exhibit R38 at 14:07.  
<sup>291</sup> Exhibit R38 at 13:23.  
<sup>292</sup> Exhibit R38 at 15:22-15:36.

- (c) Mrs Keen stating 'it is a tool of the left' in reference to the presence or actions of the neo-Nazis;<sup>293</sup> and
- (d) Ms Deves stating of trans rights activists, 'people need to start waking up to the fact as to how powerful and how dangerous this movement really is...they have infiltrated our institutions', 'even the police are afraid of their violence...we need to ask who are the baddies here'..<sup>294</sup> Of this bizarre, and conspiratorial theory, in cross-examination Mrs Deeming said this was a reference to a 'practical, well-known political strategy' being the 'long the march through the institutions'..<sup>295</sup>

12.70. Mrs Deeming's conduct in the Video was disgraceful. Rather than directing her condemnation towards the neo-Nazis, Mrs Deeming appeared to focus her criticism on the Police instead. The first mention of the Nazis is about 12 minutes into the Video. Mrs Deeming then almost immediately pivots to saying '...why did they [the Police] even let them in here, what, how were they able to keep all those trans rights activists...away from us'..<sup>296</sup> A reasonable observer of the Video would undoubtedly conclude that Mrs Deeming appeared to be more upset by the Police's conduct than that of the neo-Nazis.

12.71. Mrs Deeming also equivocated in the Video as to whether the 'men in black' were actually Nazis. Mrs Deeming thought she must have been aware that mainstream media were saying the neo-Nazis had gone to the steps of Parliament House in support of the LWS Rally,<sup>297</sup> but she was not sure if she knew that before she sat down to record the champagne video..<sup>298</sup>

12.72. Having regard to what she observed at the Rally, and what she was informed of by Mr Southwick, that Mrs Deeming may not have seen mainstream media to that effect is of little moment – Mrs Deeming had to know the men in black were Nazis. Before participating in the Video, Mrs Deeming reviewed Mr Fernando's footage of the day with Mrs Keen. They did not listen to the speech given by Sewell as captured in Mr Fernando's footage..<sup>299</sup> Their review focused on 'trying to find out the physical position of the Nazis because that's what we thought we needed to establish to ensure everyone knew that they were not with us'..<sup>300</sup> That self-

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<sup>293</sup> Exhibit R38 at 16:06.  
<sup>294</sup> Exhibit R38 at 17:30.  
<sup>295</sup> T297.23-29 (Deeming XXN).  
<sup>296</sup> Exhibit R38 at 12:24.  
<sup>297</sup> T239.1-9 (Deeming XXN).  
<sup>298</sup> T239.11-14 (Deeming XXN).

serving review hardly changes the clear public perception and linkage that by that stage had already been drawn.

- 12.73. A cursory glance at mainstream media that day, or even her own Twitter account, would have revealed to Mrs Deeming how the events of the Rally were being almost uniformly perceived by the media and public.
- 12.74. When Ms Keen and Ms Deves were actively promoting dangerous conspiracy theories, it was incumbent on Mrs Deeming, as an elected MP and a member of the Party, to make it plain that she did not subscribe to those theories. Instead, she nodded along.
- 12.75. The attempt on Mrs Deeming's behalf to justify the Video as a defensible response to the events of 18 March 2023 should be rejected.
- 12.76. Mr Pesutto explained that 'what concerned me most about that meeting were comments that were effectively conspiracy theories about who the Nazis were and, I think, a dismissal of Nazis through the quotes, the air quotes'.<sup>301</sup> As Mr Southwick said, it 'showed that Mrs Deeming was not sincere in calling out those Nazis'.<sup>302</sup>

#### *Victorian Multicultural Gala Dinner*

- 12.77. On the evening of 18 March 2023, Mr Pesutto attended the Victorian Multicultural Gala Dinner, an annual event which is apolitical by convention.<sup>303</sup> The attendance of neo-Nazis cast a pall over the evening, and Mrs Deeming's attendance at the Rally and was a topic of discussion.<sup>304</sup>
- 12.78. While there, Mr Pesutto received a text message from Ms Staley, as follows:<sup>305</sup>

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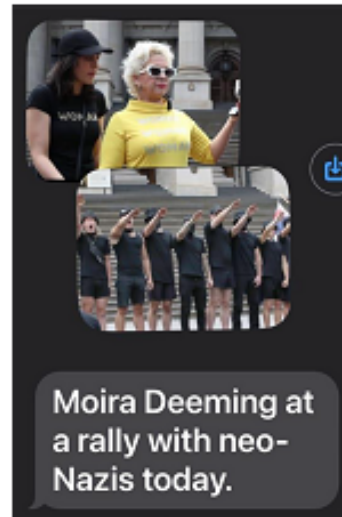
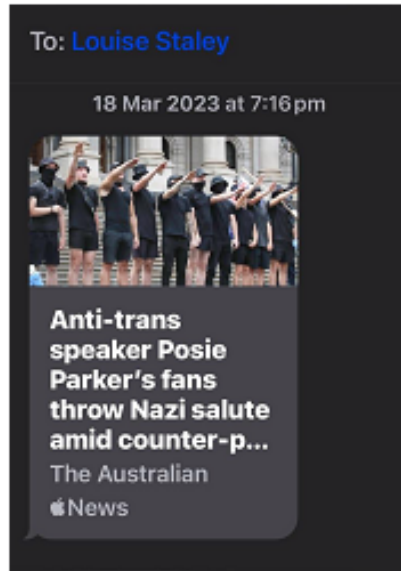
<sup>301</sup> T692.38-41 (Pesutto XXN).

<sup>302</sup> T1033.23-24 (Southwick XXN).

<sup>303</sup> CBB Tab 30, page 336 [51] (Affidavit of John Pesutto dated 27 May 2024).

<sup>304</sup> CBB Tab 30, page 338 [57] (Affidavit of John Pesutto dated 27 May 2024).

<sup>305</sup> Exhibit R189, CBC Tab 276.



- 12.79. In the course of the exchange, Ms Staley said: ‘...You need to consider expelling her from the Party room for consorting with nazis. You can't have that link and be elected to government’.
- 12.80. To which Mr Pesutto responded: ‘Agree’. Mr Pesutto explained that he was agreeing you could not have that link and be elected to government; he was not agreeing to expulsion, he could not take it further at the time as he did not know enough about the matter..<sup>306</sup> As he put it, on the Saturday night, Mr Pesutto ‘wasn’t close to making a decision’..<sup>307</sup>
- 12.81. Later that evening, another senior Party member, and immediate former Leader, Mr Matthew Guy, sent a message to Mr Pesutto and Mr Southwick ‘out of nowhere’..<sup>308</sup> saying ‘Just letting you know that if you want an expulsion motion moved in Deeming, and no one else will do it, I will’..<sup>309</sup>
- 12.82. The receipt of those two messages, on the day of the Rally, is telling as to the dimension of the problem that Mrs Deeming’s conduct had caused – it was immediately apparent to the former leader, Mr Guy, and a senior Liberal, Ms Staley, that this was a serious enough issue to warrant expulsion from the Party. That sort of political judgment cannot simply be cast aside and is hard to reconcile with the blasé attitude Mrs Deeming was taking to issues at the same time.
- 12.83. Either that evening or the following morning, Mr Pesutto and Mr Southwick, after exchanging messages during the Gala, discussed the Rally and their views that Mrs Deeming’s attendance was likely to hurt the Party. In the course of that discussion, Mr Southwick told Mr Pesutto

<sup>306</sup> T673.10-14 (Pesutto XXN).  
<sup>307</sup> T678.12 (Pesutto XXN).  
<sup>308</sup> T675.25-28 (Pesutto XXN).  
<sup>309</sup> Exhibit R192, CBC Tab 279.

he had spoken to Mrs Deeming about the Rally, and had told her that she needed to immediately distance herself from the Rally and the neo-Nazis who attended.<sup>310</sup>

12.84. By that evening, it was clear to Mr Pesutto that:<sup>311</sup>

Mrs Deeming's involvement in and attendance at the Rally which the neo-Nazis had reportedly attended would also be a huge political issue for the Party. It was clear to me at that stage that there was going to be a perception, rightly or wrongly, of a link or association between the Party, through Mrs Deeming, and the events of the Rally, including the attendance of neo-Nazis. It was also clear to me that Mr Andrews would jump on that perception, and would attack the Party on that basis. By then, it was clear to me that other senior members of the Party were just as concerned, if not more so, about Mrs Deeming's conduct and associations and the potential effects on us as a Party.

12.85. At 9:30pm on 18 March 2023 an X user posted the following:



12.86. At an unknown time on 18 March 2023, Sewell said on Telegram, 'Today in Melbourne, the National Socialist Network acted as a vanguard for a protest against the constant paedophilic agenda being forced upon our children and our people. Paedophiles deserve destruction, and the only solution to this sickness is White Revolution! DESTROY PAEDOPHILE

<sup>310</sup> CBB Tab 30, page 337 [54]–[55] (Affidavit of John Pesutto dated 27 May 2024).

<sup>311</sup> CBB Tab 30, page 338 [61] (Affidavit of John Pesutto dated 27 May 2024).

FREAKS!'. The Court should comfortably conclude that the protest in respect of which the Nazis provided a 'vanguard' was the LWS Rally.

### 13. 19 March 2023

- 13.1. By the morning of 19 March 2023, the public linkage between the neo-Nazis and the Rally was becoming increasingly clear and persistent.
- 13.2. The 19 March 2023 edition of the *Herald Sun* repeated part of Mr Burns' statement, together with a picture of Mrs Keen.<sup>312</sup> Mrs Deeming accepted this was another report in mainstream media connecting the neo-Nazi presence with the Rally.<sup>313</sup>
- 13.3. At 8:25am, Mr Pesutto sent a text message to his then Chief of Staff, Mr Pintos-Lopez, indicating he had spoken to Mr Southwick about meeting with Mrs Deeming at 5pm that day.<sup>314</sup> Mr Pesutto asked Mr Pintos-Lopez over the phone to conduct some research on the Rally and what had happened at it.<sup>315</sup>
- 13.4. Sometime between 10 and 11am, Mr Pesutto spoke to Mr Southwick and Mr Pintos-Lopez by phone. Much was made of the fact Mr Pintos-Lopez provided advice during that call to 'slow down' and 'gather and understand all the relevant facts' before acting.<sup>316</sup> However, that advice was given before the true extent of the media storm that was brewing was known and before he had done his research and gathered the relevant facts upon which the Leadership Team ultimately acted. In any event, Mr Pintos-Lopez saw nothing wrong with Mr Pesutto considering his advice before determining to proceed to arrange the meeting with Mrs Deeming later that afternoon.<sup>317</sup>
- 13.5. At 10:46am, Mr Pesutto send a screenshot to the WhatsApp group chat 'Leadership Media' of the following LGBTI Rights Australia post:<sup>318</sup>

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<sup>312</sup> Exhibit R33, CBC Tab 349.

<sup>313</sup> T252.26-39 (Deeming XXN).

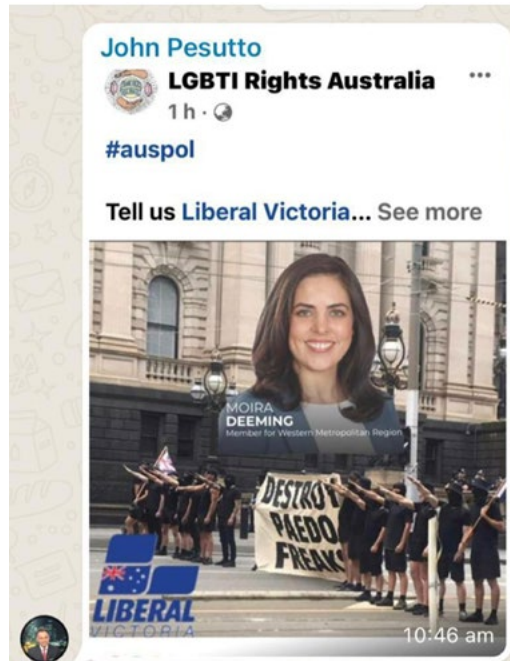
<sup>314</sup> Exhibit A148, CBC Tab 292.

<sup>315</sup> CBB Tab 30, page 339 [65]; page 441, [18] (Affidavit of John Pesutto dated 27 May 2024).

<sup>316</sup> CBB Tab 30, page 441 [17] (Affidavit of John Pesutto dated 27 May 2024).

<sup>317</sup> T1218.14 (Pintos-Lopez XXN).

<sup>318</sup> Exhibit R200, CBC Tab 298.



- 13.6. Throughout the morning, more high-profile politicians had also joined the fray:
- (a) the Leader of the Australian Greens in the Federal Parliament, Adam Bandt had posted on X, in which he publicly asserted that the neo-Nazis were allies of the Rally;
  - (b) the then Premier of the State Daniel Andrews had made a linkage between the Rally and the neo-Nazis.<sup>319</sup> Mr Andrews tweet was embedded in various mainstream media articles throughout the day and was widely published, such that it had about 1.2 million views.
- 13.7. Mrs Deeming accepted this was the case,<sup>320</sup> and it was clear that the Leadership Team (including Mr Pesutto) were aware of these tweets.<sup>321</sup>
- 13.8. At about 11am, Mr Pesutto asked Ms Crozier to ring Mrs Deeming.<sup>322</sup>
- 13.9. Ms Crozier rang Mrs Deeming and asked her to come into the Party's offices in the Melbourne CBD to discuss the Rally with the Leadership Team. Mrs Deeming asked 'what for', and Ms Crozier said they wanted to speak with her and clear things up. Mrs Deeming said she had done nothing wrong.<sup>323</sup>

<sup>319</sup> Exhibit R205, CBC Tab 310.

<sup>320</sup> T252.10 (Deeming XXN).

<sup>321</sup> Exhibit A2, lines 41-42.

<sup>322</sup> CBB Tab 1, page 13 [58] (Affidavit of Moira Deeming dated 27 May 2024); CBB Tab 34, page 413 [26] (Affidavit of Georgie Crozier dated 27 May 2024).

<sup>323</sup> CBB Tab 30, page 339 [67] (Affidavit of John Pesutto dated 27 May 2024); CBB Tab 34, page 413 [27] (Affidavit of Georgie Crozier dated 27 May 2024).

13.10. Mrs Deeming raised the issue of organising a babysitter for her children.<sup>324</sup> Ms Crozier responded to the effect that while she sympathised, these were important issues she needed to discuss with the Leadership Team.<sup>325</sup>

13.11. Around the same time as Mrs Deeming was lamenting the need to attend a meeting her decisions had caused, Mr Southwick gave a pre-arranged press conference during which (after he had spoken on the planned transport related issues, and again denounced the neo-Nazis) he was asked by an unidentified journalist:<sup>326</sup>

A member of your own party, Moira Deeming, was there, she was supporting the anti-trans movement. The neo-Nazis say they were there aligned with that movement. What do you make of that, do you support her action?

13.12. When Mr Southwick tried to put the focus back on the neo-Nazis in his answer, he was asked:<sup>327</sup>

Do you think it's appropriate that a Liberal Party member was there supporting the anti-trans movement?

13.13. We know from the recording of the meeting between Mrs Deeming and the Leadership Team later that day, that sometime after Mr Southwick was questioned, the ABC had asked the Anti-Defamation Commission about their 'thoughts about the Liberal Party having one of their own associated with these Nazis'.<sup>328</sup>

13.14. By 1:37pm the ABC website reported that 'A group of men who gathered in support of an anti-transgender activist was seen performing Nazi salutes on the steps of Victoria Parliament'.<sup>329</sup> The article also reported that Mrs Deeming had been present at the Rally, and that Mr Southwick had been asked questions about Mrs Deeming's attendance at the Rally.<sup>330</sup>

13.15. Other mainstream media had begun to link the neo-Nazis, the Rally and Mrs Deeming. For example:

(a) *The Age*, 'Neo-Nazi salutes at protest could prompt change to anti-vilification laws' at 11:40am on 19 March 2023;<sup>331</sup>

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<sup>324</sup> CBB Tab 1, page 13 [58] (Affidavit of Moira Deeming dated 27 May 2024).

<sup>325</sup> CBB Tab 35, page 421 [3] (Second affidavit of Georgie Crozier dated 17 July 2024).

<sup>326</sup> Exhibit R69, lines 54-56.

<sup>327</sup> Exhibit R69, lines 63-64.

<sup>328</sup> Exhibit A2, lines 892-901.

<sup>329</sup> Exhibit R34, CBC Tab 354.

<sup>330</sup> T253.38-40 (Deeming XXN).

<sup>331</sup> CBC Tab 610, page 3932.



- (b) *The Daily Mail*, 'Victoria to explore neo-Nazi crackdown after ugly clash' at 12:11pm on 19 March 2023;<sup>332</sup>
- (c) *news.com.au*, "'Not welcome": Dan Andrews slams neo-Nazi protestors after violent Melbourne clash' at 3:51pm on 19 March 2023;<sup>333</sup>

13.16. Mrs Deeming accepted some articles asserted that the neo-Nazis had attended in support of the Rally.<sup>334</sup>

13.17. At the same time, Mrs Deeming was being abused and criticised on X and through other channels.

13.18. At 5:16pm on the afternoon of 19 March 2023, Mrs Deeming received an email from Joylene Dodman,<sup>335</sup> which stated, among other things: 'why are you associated with a person who targets one group of people based on the fact they want to live a bit different to how she thinks they should' and 'you as a politician should be wary of whom you associate. Anyone associated with bigotry or racism, intolerance or inhumanity it totally lost on me'.

13.19. At 5:57pm, Mrs Deeming received an email from Kathleen Andrews,<sup>336</sup> which stated, among other things: 'to stand with a group who publicly hate and demonstrate in support of Nazism is shameful' and 'I believe you should apologise for standing with a group of Nazis and gender hating cowards, including this purported feminist'.

13.20. At 6:00pm, the lead story on the Channel 9 news was a report called 'Stop the Hate', which reported on the events of the Rally and Mrs Deeming's attendance. The key features of that report include:<sup>337</sup>

- (a) the Rally being described as a 'far-right protest';
- (b) the neo-Nazis are said to have 'arrived in support of an anti-trans rights speaker', undoubtedly a reference to Mrs Keen;
- (c) 'trans supporters' are said to have become the target;
- (d) an interviewee described there being a sign 'calling me a paedophile' and describing the targeting of trans people by calling for the mass murder of an entire group of people;

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<sup>332</sup> Exhibit R512, CBC Tab 913, page 3939.

<sup>333</sup> Exhibit R520, CBC Tab 921, page 3949.

<sup>334</sup> T253.21-22 (Deeming XXN).

<sup>335</sup> Exhibit R36, CBC Tab 315.

<sup>336</sup> Exhibit R35 CBC Tab 320.

<sup>337</sup> Exhibit R218, CBC Tab 355.

- (e) Mrs Deeming was described as attending ‘the anti-trans talk’ and ‘smiling in selfies with a controversial speaker’, overlaid by a picture of Mrs Deeming and Mrs Keen at the Rally;
- (f) Mr Southwick commenting that Mrs Deeming ‘has a right to her views’.

***The 19 March 2023 Meeting***

- 13.21. The Leadership Team and Mr Pintos-Lopez met for about 30 minutes before meeting with Mrs Deeming.<sup>338</sup> Mr Pintos-Lopez showed the Leadership Team what he had found through his research, including the Jones tweet, Mrs Keen’s use of the Nazi barbie doll image and the Video.<sup>339</sup> Mr Pintos-Lopez said it only took him a matter of minutes to find this material.<sup>340</sup> Mr Pintos-Lopez assured the Leadership Team that the information was reliable.<sup>341</sup>
- 13.22. Mr Pesutto was concerned about the neo-Nazis’ presence at the Rally, but as a result of the research done by Mr Pintos-Lopez, also had concerns about the aims of the Rally and the ‘Let Women Speak’ movement itself, as well as the Jones tweet.<sup>342</sup> However, Mr Pesutto was willing to reserve judgment until they spoke to Mrs Deeming.<sup>343</sup>
- 13.23. Mr Pesutto considered the possible outcomes of the meeting with Mrs Deeming to be Mrs Deeming issuing a public statement distancing herself from the Rally, Mrs Deeming voluntarily resigning to become an independent, or bringing a motion to expel Mrs Deeming. He considered the motion to expel to be a last resort and hoped they could reach an amicable outcome.<sup>344</sup>
- 13.24. When challenged about whether Mr Pesutto had made up his mind before the meeting with Mrs Deeming, each of the witnesses called on behalf of Mr Pesutto gave consistent evidence to the effect that Mr Pesutto was considering a third option by which Mrs Deeming would put out a statement distancing herself from the organisers of the Rally (rather than resignation or expulsion).<sup>345</sup>

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<sup>338</sup> CBB Tab 30, page 339 [68] (Affidavit of John Pesutto dated 27 May 2024); CBB Tab 32, page 393 [19] (Affidavit of Matt Bach dated 26 May 2024); CB Tab 34, page 413 [28] (Affidavit of Georgie Crozier dated 27 May 2024); CBB Tab 36, page 430 [13] (Affidavit of Nick Johnston dated 24 May 2024); CBB Tab 37, page 443 [33] (Affidavit of Rodrigo Pintos-Lopez); CBB Tab 39, page 458–9 [32] (Affidavit of David Southwick dated 27 May 2024).

<sup>339</sup> CBB Tab 30, page 339–40 [70] (Affidavit of John Pesutto dated 27 May 2024); CBB Tab 32, page 393 [20] (Affidavit of Matt Bach dated 26 May 2024); CBB Tab 34, page 413 [30] (Affidavit of Georgie Crozier dated 27 May 2024); CBB Tab 36, page 430 [14] (Affidavit of Nick Johnston dated 24 May 2024); CBB Tab 39, page 459 [33] (Affidavit of David Southwick dated 27 May 2024).

<sup>340</sup> CBB Tab 30, page 340 [71] (Affidavit of John Pesutto dated 27 May 2024).

<sup>341</sup> CBB Tab 30, page 340 [72] (Affidavit of John Pesutto dated 27 May 2024); CBB Tab 32, page 394 [21] (Affidavit of Matt Bach dated 26 May 2024).

<sup>342</sup> CBB Tab 30, page 341 [76]–[77] (Affidavit of John Pesutto dated 27 May 2024).

<sup>343</sup> CBB Tab 30, page 341 [78] (Affidavit of John Pesutto dated 27 May 2024).

<sup>344</sup> CBB Tab 30, page 341–2 [79] (Affidavit of John Pesutto dated 27 May 2024).

<sup>345</sup> T921.39-42 (Bach XXN); T1049.25-26 (Southwick XXN); T1246.22-25 (Pintos-Lopez XXN).

13.25. At 5:21pm, Mr Pesutto sent Mr Johnston a draft of a media statement,<sup>346</sup> which he prepared in the ‘notes’ function of his phone earlier that day.<sup>347</sup>

*The meeting takes place*

13.26. At 5:24pm, Mrs Deeming met with the Leadership Team, being Mr Pesutto, Ms Crozier, Mr Southwick and Dr Matt Bach, as well as Mr Pintos-Lopez.

13.27. The recording of the meeting reveals that Mrs Deeming is an unreliable and confused narrator. She made many serious allegations that have proved utterly unfounded. In particular, the recording reveals the following matters that directly contradict the account given in Mrs Deeming’s affidavits (much of which was not read):

- (a) Mr Pesutto never called Mrs Deeming’s views on sex-based rights ‘fringe’ views.<sup>348</sup> Nor did the Leadership Team attack her advocacy for sex-based rights on the basis they were ‘fringe’ views.<sup>349</sup>
- (b) No one at the meeting said it was Mrs Deeming’s ‘third strike’, and Mrs Deeming never said that nobody had told her about any strikes or that in her opinion none of the three matters said to be strikes was bad.<sup>350</sup> It was Mrs Deeming who raised the fact that she had had three controversies in a row, not any member of the Leadership Team.
- (c) Mr Pesutto never said Mrs Deeming had an attitude problem.<sup>351</sup>
- (d) Mrs Deeming never showed any suspicion about the accuracy of the claims being put to her.<sup>352</sup> Rather, she tried to downplay them but ultimately admitted, repeatedly, that she could understand why the Leadership Team thought they were not a good look.<sup>353</sup>
- (e) Mrs Deeming never asked if she could see the evidence, or what was on Mr Pintos-Lopez’s laptop screen, and Mr Pintos-Lopez never refused to show her what was on the screen.<sup>354</sup>

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<sup>346</sup> Exhibit A152, CBC Tab 316.

<sup>347</sup> CBB Tab 30, page 342 [80] (Affidavit of John Pesutto dated 27 May 2024).

<sup>348</sup> Cf CBB Tab 1, page 14 [60] (Affidavit of Moira Deeming dated 27 May 2024); CBB Tab 1, page 84 [88(a)], page 89 [91(a)] (Second affidavit of Moira Deeming dated 23 July 2024).

<sup>349</sup> Cf CBB Tab 1, page 14 [63] (Affidavit of Moira Deeming dated 27 May 2024).

<sup>350</sup> Cf CBB Tab 1, page 14 [64] (Affidavit of Moira Deeming dated 27 May 2024).

<sup>351</sup> Cf CBB Tab 1, page 15 [65] (Affidavit of Moira Deeming dated 27 May 2024).

<sup>352</sup> Cf CBB Tab 1, page 15 [70] (Affidavit of Moira Deeming dated 27 May 2024).

<sup>353</sup> Cf CBB Tab 2, page 87 [89(f)] (Second affidavit of Moira Deeming dated 23 July 2024).

<sup>354</sup> Cf CBB Tab 1, page 15 [71] (Affidavit of Moira Deeming dated 27 May 2024); CBB Tab 2, page 82–3 [85], page 84 [88(e)] (Second affidavit of Moira Deeming dated 23 July 2024).

- (f) No one ever asked Mrs Deeming to denounce Mrs Keen as a Nazi, and Mrs Deeming never said that she had been following Mrs Keen on mainstream TV for a decade.<sup>355</sup>
- (g) There was no allegation that Mrs Keen is a Nazi,<sup>356</sup> nor Ms Jones or Ms Deves.<sup>357</sup>
- (h) The Leadership Team was not focused on getting Mrs Deeming to denounce the organisers of the Rally as Nazis.<sup>358</sup>
- (i) Mrs Deeming did not say she would not denounce Mrs Keen, Ms Jones and Ms Deves as Nazis without seeing proof.<sup>359</sup>
- (j) Dr Bach never said that Mrs Deeming had gone out celebrating with Nazis after the Rally, nor did he say, ‘You were drinking champagne with Nazi bigots! You filmed it yourselves and put it on the internet!’<sup>360</sup>
- (k) Mrs Deeming never told the Leadership Team that Mrs Keen had launched a tirade against Nazism just before they filmed the champagne video.<sup>361</sup>
- (l) Mrs Deeming tried to downplay her level of involvement as an organiser of the Rally,<sup>362</sup> despite having been involved in organising the Rally for months beforehand, including paying for security and sound, organising access, liaising regarding insurance and providing briefing notes to Mrs Keen.
- (m) Mrs Deeming blamed the police for what had occurred.<sup>363</sup>
- (n) Mrs Deeming never said, ‘I shouldn’t be held responsible for other people’s tweets that I’ve never seen and I’m not condemning anyone without irrefutable proof’, nor that the Leadership Team should not either.<sup>364</sup>

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<sup>355</sup> Cf CBB Tab 1, page 15 [72] (Affidavit of Moira Deeming dated 27 May 2024).

<sup>356</sup> Cf CBB Tab 2, page 83 [87], page 85 [88(g)] (Second affidavit of Moira Deeming dated 23 July 2024).

<sup>357</sup> Cf CBB Tab 1, page 17 [77] (Affidavit of Moira Deeming dated 27 May 2024); CBB Tab 2, page 85 [88(g)], page 87 [89(h)] (Second affidavit of Moira Deeming dated 23 July 2024).

<sup>358</sup> Cf CBB Tab 2, page 87 [89(h)–(i)], page 89 [91(c)], page 90 [92(c)] (Second affidavit of Moira Deeming dated 23 July 2024).

<sup>359</sup> Cf CBB Tab 2, page 85 [88(g)], page 87 [89(i)], page 89 [90(c)], [91(c)] (Second affidavit of Moira Deeming dated 23 July 2024).

<sup>360</sup> Cf CBB Tab 1, page 16 [76] (Affidavit of Moira Deeming dated 27 May 2024).

<sup>361</sup> Cf CBB Tab 1, page 16 [76] (Affidavit of Moira Deeming dated 27 May 2024).

<sup>362</sup> Cf CBB Tab 2, page 86 [89(b)] (Second affidavit of Moira Deeming dated 23 July 2024).

<sup>363</sup> Cf CBB Tab 2, page 87 [89(i)] (Second affidavit of Moira Deeming dated 23 July 2024).

<sup>364</sup> Cf CBB Tab 1, page 17 [79] (Affidavit of Moira Deeming dated 27 May 2024).

- 13.28. Mrs Deeming accepted that, from their perspective, she understood why the Leadership Team were concerned with the content of the Jones tweet.<sup>365</sup> She also accepted there was a real issue about the alleged public associations that Mrs Keen had with Nazis and white supremacists.<sup>366</sup>
- 13.29. Some of the evidence given in Mrs Deeming's affidavit about the 19 March meeting are confused, others are plainly invented.
- 13.30. The recording also reveals that Mrs Deeming's handwritten notes of the meeting, seemingly made the following day, do not reflect what happened at the meeting. In particular, the recording reveals the following aspects of the meeting that directly contradict Mrs Deeming's notes:
- (a) the Leadership Team did not talk about Mrs Deeming's views 'over & over';<sup>367</sup>
  - (b) Mrs Deeming was not repeatedly asked if she knows Nazis;<sup>368</sup>
  - (c) Mrs Deeming never said about Mrs Keen, 'I don't think it's true. Mainstream. 10 years. CPAC backed';<sup>369</sup>
  - (d) Dr Bach never said, 'You've spent time with Nazis';<sup>370</sup>
  - (e) Mrs Deeming never said, 'Can I see evidence?' and no one said, 'No';<sup>371</sup>
  - (f) Dr Bach never said, outraged, 'You were drinking champagne with Nazi bigots'.<sup>372</sup>
- 13.31. Indeed, throughout the 19 March meeting the Leadership Team were at pains to make clear that the concern was not about Mrs Deeming's advocacy of sex-based rights, for example:
- (a) at the outset, Mr Pesutto said, 'I should say people have views about gender identity right across the board so nothing I'm saying is about whether you should or shouldn't have those views, it's not my place to judge, people will have those views';<sup>373</sup>
  - (b) Mr Southwick said, 'your views are your views, I've never tackled anything about them, and I respect that you're able to have your views 100%';<sup>374</sup>

<sup>365</sup> T289.2-6 (Deeming XXN).

<sup>366</sup> T289.14-16 (Deeming XXN).

<sup>367</sup> Cf Exhibit R81 CBC Tab 4, page 43.

<sup>368</sup> Cf Exhibit R81 CBC Tab 4, page 43.

<sup>369</sup> Cf Exhibit R81, CBC, Tab 4, page 43.

<sup>370</sup> Cf Exhibit R81, CBC Tab 4, page 44.

<sup>371</sup> Cf Exhibit R81, CBC Tab 4, page 45.

<sup>372</sup> Cf Exhibit R81, CBC Tab 4, page 45.

<sup>373</sup> Exhibit A2, lines 16-18

<sup>374</sup> Exhibit A2, lines 442-443.

- (c) Mr Pesutto said, ‘David was not condemning you for your views. In fact, he was doing the opposite, and respecting the fact that whatever views you have are yours’;<sup>375</sup>
- (d) Mr Pesutto said, ‘If you want to be in the party, it’s possible to do that without having to relinquish your views, or walk away from the things you believe in, but there would have to be some clear, if you like, road rules’;<sup>376</sup> and
- (e) Mr Southwick said, ‘no one’s asking you or telling you that you have to give up your views’.<sup>377</sup>

13.32. Mr Pesutto has refuted on all subsequent occasions that his true purpose for expelling Mrs Deeming was for her advocacy of sex-based rights.<sup>378</sup>

13.33. Mrs Deeming asserted that some of these differences were based upon her interpretation of what was said.<sup>379</sup> In cross-examination, Mrs Deeming’s continued to conflate concepts.<sup>380</sup>

**Dr Collins:** Let me put it another way to you. You were being asked about whether, to your knowledge, any of the people you had worked with on the LWS rally might have had sympathies or liaisons with Nazi groups, not whether any of them were Nazis?---Or “worked with” and had liaisons, sympathies – worked with, “liaisons with Nazi groups”. Wouldn’t – I take that to be basically the same meaning, that if they did those kinds of things, then they would be Nazis and I would know them.

13.34. Mrs Deeming explained it as ‘I think I mistook a lot of what was said by other people’.<sup>381</sup>

13.35. It has been suggested on Mrs Deeming’s behalf that she was ambushed, attacked or bullied at the meeting. That suggestion should not be accepted. The evidence of all attendees of the meeting aside from Mrs Deeming,<sup>382</sup> and indeed the recording of the meeting itself, comprehensively refutes any suggestion that the Leadership Team ambushed, attacked or bullied Mrs Deeming.

13.36. By the end of the meeting, rather than agreeing to distance herself from Mrs Keen and Ms Jones and the Rally, Mrs Deeming’s position had become one of being prepared only to:

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<sup>375</sup> Exhibit A2, lines 463-465.

<sup>376</sup> Exhibit A2, lines 692-694.

<sup>377</sup> Exhibit A2, lines 771-772.

<sup>378</sup> See, e.g., Expulsion Motion and Dossier: CBA Tab 15, page 196; Exhibit R228, CBC tab 432, page 2225; CBB Tab 30, page 344 [96] (Affidavit of John Pesutto dated 27 May 2024).

<sup>379</sup> T278.24-24 (Deeming XXN).

<sup>380</sup> T279.1-3 (Deeming XXN).

<sup>381</sup> T281.27 (Deeming XXN).

<sup>382</sup> CBB Tab 30, page 383 [69] (Affidavit of John Pesutto dated 27 May 2024); T721.5-8 (Pesutto XXN); T1082.6-11, 1110.28-29 (Southwick XXN); CBB Tab 37 page 443 [38] (Affidavit of Rodrigo Pintos-Lopez dated 24 May 2024); T1254.37-42, 1255.6-9 (Pintos-Lopez XXN); CBB Tab 33, page 402-403 [6], [9] (Second affidavit of Matt Bach dated 16 July 2024); T923.46, 924.14-16 (Bach XXN); CBB Tab 34, page 414 [35] (Affidavit of Georgie Crozier dated 27 May 2024).

- (a) 'just to condemn in general, I don't know, Nazism, you know the beliefs, that would make more sense because what I leave something out...';<sup>383</sup>
- (b) denounce 'Nazism and anything similar and, I don't know, anything similar and any accusations of paedophilia for the trans community';<sup>384</sup> and
- (c) 'condemn' Nazism and the suggestion that people are paedophiles because of their sexuality..<sup>385</sup>

13.37. But those concessions bore no relationship to what Mr Pesutto had sought from Mrs Deeming, which was 'a statement, it would need [to] be pretty hard, it would need to go a long way to disassociating yourself from them and disassociating us';<sup>386</sup> and 'cut[ting] yourself away from these people'..<sup>387</sup>

13.38. Mr Pesutto made clear that the Leadership Team's concerns were about Nazi and other links with the people Mrs Deeming was working with..<sup>388</sup> For this reason, the Leadership Team insisted that any statement would need to disown the fellow organisers of the Rally. Mr Pesutto said, for example, 'I will not be associated by one or two times removed with Angie Jones. I will not'..<sup>389</sup> At the conclusion of the 19 March meeting, after the Leadership Team decided to proceed with the expulsion motion, Mr Pesutto that the reason for the expulsion motion was 'links of people to self-confessed and self-professed Nazis'..<sup>390</sup>

13.39. By the end of that meeting it was clear to Mr Pesutto, and the rest of the Leadership Team, that 'Mrs Deeming was not going to do anything like what we needed to do'..<sup>391</sup> The 'general denunciations' offered by Mrs Deeming would not be sufficient..<sup>392</sup> Mr Pesutto put the issue succinctly:<sup>393</sup>

I think Mrs Deeming, your Honour, knew what the concerns were. She was an MP. The matters that were put to her were, in our view, fairly straightforward. And if anything surprised, your Honour, it was that anyone having looked at that material and considered what was raised with Mrs Deeming in that meeting would have needed any time to reflect on it. It was pretty obvious how dangerous and how risky it was for the party and its reputation.

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<sup>383</sup> Exhibit A2, lines 663-665.  
<sup>384</sup> Exhibit A2, lines 912-914.  
<sup>385</sup> Exhibit A2, lines 936-940.  
<sup>386</sup> Exhibit A2, lines 687-688.  
<sup>387</sup> Exhibit A2, lines 906.  
<sup>388</sup> Exhibit A2, line 165, 169.  
<sup>389</sup> Exhibit A2, lines 815-816.  
<sup>390</sup> Exhibit A3, lines 23-24.  
<sup>391</sup> T610.30-31 (Pesutto XXN).  
<sup>392</sup> T610.45-46 (Pesutto XXN).  
<sup>393</sup> T611.28-33 (Pesutto XXN).

13.40. Mr Pesutto disagreed with the proposition put to him that Mrs Deeming had agreed to condemn the conduct.<sup>394</sup>

what I understood from her comments and the meeting was that Mrs Deeming was not prepared to condemn their conduct. It had to be relevant to what they had done. I understood Mrs Deeming to be prepared to give general denunciations. I wanted to sever any connection that anyone could draw between what Mrs Deeming had done in – in, and in respect of, the rally and those two individuals, in particular.

13.41. He further explained:<sup>395</sup>

My understanding of what Mrs Deeming was getting at was that she would make some general denunciations, but I wasn't convinced that we were ad idem on, 'No, you have to actually condemn those matters in relation to Ms Jones and Ms Keen.'

13.42. Having spent about 70 minutes speaking with Mrs Deeming, the Leadership Team were not convinced that Mrs Deeming 'had a sense of the gravity of what happened'..<sup>396</sup> Dr Bach considered that Mrs Deeming 'chopped and changed' what she was prepared to condemn throughout the meeting, and was left with the strong impression by the end of the meeting that Mrs Deeming was 'not interested in creating the necessary distance between herself and – and her associates'..<sup>397</sup> Mr Southwick said that Mrs Deeming only offered to condemn Ms Keen and Ms Jones' conduct 'in a roundabout way' and 'not completely'..<sup>398</sup> Ms Crozier said that if she was a new MP and had been asked to meet with the Leadership, she 'would have done anything to say I'm sorry. What can I do? How do I fix this? What is it that we needed to do? There was none of that'. Ms Crozier said that she was not convinced that Mrs Deeming was sincere about her motivations..<sup>399</sup>

13.43. The Leadership Team's concern in relation to Mrs Deeming's sincerity was valid and well-founded:

- (a) On 20 March 2023, Mrs Deeming issued a public statement saying 'they' (the women at the Rally) had done nothing wrong..<sup>400</sup>
- (b) On 22 March 2023, Mrs Deeming sent Ms Keen a text message which said, 'You're amazing & I have steadfastly refused to denounce you. Proud to know you'..<sup>401</sup>

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<sup>394</sup> T610.43-611.1 (Pesutto XXN).

<sup>395</sup> T615.19-22 (Pesutto XXN).

<sup>396</sup> T713.42-44 (Pesutto XXN).

<sup>397</sup> T958.26-32 (Bach XXN).

<sup>398</sup> T1094.5-7 (Southwick XXN).

<sup>399</sup> T1154.20-25 (Crozier XXN).

<sup>400</sup> T615.26-29 (Pesutto XXN).

<sup>401</sup> Exhibit R179, CBC Tab 252.



13.44. In cross-examination, Mrs Deeming maintained that Mr Pintos-Lopez had turned his laptop away from her at the meeting.<sup>402</sup> No other person present at the meeting supported that version of events. The recording of the meeting confirms that Mrs Deeming never asked to see what was on Mr Pintos-Lopez's screen or asked to see evidence. It seems clear from the evidence that Mr Pintos-Lopez had various articles and a version of a fact sheet from which he read out during the meeting<sup>403</sup> and his laptop with him, which had about 40 different tabs open as a result of the research he had done during the day.<sup>404</sup> Mr Pintos-Lopez said that he recalls turning around his laptop and showing Mrs Deeming pictures on his laptop.<sup>405</sup> Mr Pintos-Lopez's evidence should be accepted. He is not a party to this litigation and can be under no misapprehension as to the seriousness of lying. More importantly, Mrs Deeming has proven herself to be an unreliable narrator with a poor memory, and Mr Pintos-Lopez's account is consistent with the recollections the members of the Leadership Team,<sup>406</sup> whose other recollections were far closer to what the recording demonstrated than Mrs Deeming's

*The Leadership Team and Mr Pintos-Lopez confer privately*

- 13.45. The Leadership Team and Mr Pintos-Lopez then went into a separate room to have a private discussion about how they planned to proceed. The members of the Leadership Team agreed that Mrs Deeming was not serious about calling out the conduct of the speakers or organisers of the Rally, and accordingly, unanimously decided that they would move to expel her.<sup>407</sup>
- 13.46. A brief meeting then took place in which Mrs Deeming was informed of that decision. That meeting was also recorded. Mr Pesutto relevantly said (our emphasis):<sup>408</sup>

We've had quite a long discussion where we fleshed through everything. The long and short of it, Moira, is [00.30] as a group we don't think a statement will work. The damage is deep and a statement won't get us there. What I'm going to do is ask the Party Room to support a motion to remove you from the Parliamentary Party. I'm sorry it's come to this, and it's not done personally. I have to put the team first and nothing I think about gets past, gets me past the concern I have that the damage [01.00] to the team and our prospects is too severe. The Party Room will decide, but I'll put it to them that in the circumstances for the reasons we've gone through today, that's what I'm going to do. If you wanted to, you could resign in the meantime but that's a matter for you, I can't force anything on that front. It would save everyone a whole lot of, you know, the energy that goes into these things but, Moira, I'm going to proceed on that basis. If you do want to resign, [01.30] let me know, but I propose to advise the Party Room immediately. I won't have a formal motion done, but I will get that

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<sup>402</sup> T279.35-37 (Deeming XXN).

<sup>403</sup> T1227.27-28 (Pintos-Lopez XXN).

<sup>404</sup> T1233.14 (Pintos-Lopez XXN).

<sup>405</sup> T1253.41-42 (Pintos-Lopez XXN).

<sup>406</sup> T707.14 (Pesutto XXN); T1057.27-33 (Southwick XXN); T1150.44 – T1151.2 (Crozier XXN);

<sup>407</sup> CBB Tab 30, page 344 [92] (Affidavit of John Pesutto dated 27 May 2024); CBB Tab 39, page 461 [37(l)] (Affidavit of David Southwick dated 27 May 2024). CBB Tab 32, page 396 [34] (Affidavit of Matt Bach dated 26 May 2024).

<sup>408</sup> Exhibit A3, lines 1–27 (emphasis added).

out as soon as I possibly can. Again, I'm very sorry it's come to this. But I just don't feel I have a choice. Again, at the risk of repeating myself, it's not personal, I'm putting the team first and I just feel I need to do that..... you'll be given a chance to address the Party Room I think is what happens. I wasn't there when Bernie went through the same thing, but **I stress that the reasons for it relate to the matters concerning links of people to self-confessed and self-professed Nazis which we just cannot take that on as a party.** [03.00] We are committed to winning in 2026 and this stuff will ensure that we don't win and I'm already being attacked again on social media but this time by ministers of the government who are already gunning for me this week. It's not going anywhere...

- 13.47. The emphasised words are important. They are the final distillation of the reason given by Mr Pesutto for the Leadership Team's decision to move an expulsion motion. And importantly, they are entirely consistent with the reason then given in the Media Release, issued shortly thereafter.

*The Leadership Team contact their Parliamentary colleagues*

- 13.48. As Mr Pesutto said they would, the Leadership Team divided a list of members of the Party to call and provide them notice of their intention to move to expel Mrs Deeming.<sup>409</sup>
- 13.49. Mr Pesutto recalled that his calls were fast and short, as he was trying to contact as many colleagues as quickly as possible.<sup>410</sup> Some of Mrs Deeming's witnesses give evidence of receiving these phone calls.<sup>411</sup>
- 13.50. Mr Wells says that he received a phone call from Mr Pesutto, who said that Mrs Deeming had organised a group of Nazis to attend the Rally.<sup>412</sup> Mr Pesutto did not believe he would have said this, believing he would have used the same words he used in other calls that night.<sup>413</sup> Mr Pesutto maintained that clear denial in cross-examination.<sup>414</sup>
- 13.51. Mr Wells' account of the conversation should not be accepted. Mr Pesutto obviously did not at any time believe that Mrs Deeming had organised a group of Nazis to attend the Rally. He called Mr Wells very shortly after the conclusion of the 19 March meeting with Mrs Deeming, at the end of which he had clearly articulated the reason for moving the motion, namely 'the matters concerning links of people to self-confessed and self-professed Nazis which we just cannot take that on as a party'.

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<sup>409</sup> CBB Tab 30, page 345 [103] (Affidavit of John Pesutto dated 27 May 2024); CBB Tab 32, page 396 [38] (Affidavit of Matt Bach dated 26 May 2024); CBB Tab 34, page 415 [41] (Affidavit of Georgie Crozier dated 27 May 2024); CBB Tab 39, page 462 [40] (Affidavit of David Southwick dated 27 May 2024).

<sup>410</sup> CBB Tab 30, page 345 [103] (Affidavit of John Pesutto dated 27 May 2024).

<sup>411</sup> CBB Tab 9, page 167 [6]; CB Tab 12, page 195 [5] (Affidavit of David Hodgett dated 27 May 2024); CBB Tab 20, page 248 [10] (Affidavit of Richard Riordan dated 24 May 2024); CBB Tab 23, page 269 [15] (Affidavit of Ryan Smith dated 21 May 2024); CBB Tab 27, page 297 [11] (Affidavit of Kim Wells dated 24 May 2024).

<sup>412</sup> CBB Tab 27, page 297 [11] (Affidavit of Kim Wells dated 24 May 2024).

<sup>413</sup> CBB Tab 31, page 368-9 [13] (Second affidavit of John Pesutto dated 22 July 2024).

<sup>414</sup> T726.35-36 (Pesutto XXN).

- 13.52. It simply makes no sense that Mr Pesutto would then get on the phone to a colleague who held animus<sup>415</sup> towards him and make a false statement that bore no relationship to what had just happened at the meeting, the content of the email that was sent to the members of the Party, the Media Release, the media statements then given on 20 March 2023, or anything said at subsequent Party room meetings. Mr Wells conceded that Mr Pesutto had never said anything like the words he attributed to him in this phone conversation on any other occasion,<sup>416</sup> a matter which again tells against the veracity of Mr Wells' evidence on the point.
- 13.53. For reasons developed in the principal submissions, Mr Wells was an unsatisfactory witness, with an obvious animus to Mr Pesutto, who purported at times to have a better recollection of matters than he actually did. His recollection was clouded by his belief that what was stated by Mr Pesutto in the Publications could not justify Mrs Deeming's expulsion,<sup>417</sup> by his (incorrect) belief that the email he received around the same time announced the Leadership team's intention to expel Deeming 'for attending a rally with Nazis and for associating with Nazis and bigotry',<sup>418</sup> and by his later (again wrong) belief that Mr Pesutto double-crossed Mrs Deeming.
- 13.54. Mr Wells' recollection of the actual words used (rather than his impression at the time) is inherently unbelievable, does not accord with Mr Pesutto's state of mind at the time, is quite at odds with Mr Pesutto's recorded statements that day and following day, and quite at odds with the other conversations Mr Pesutto had that evening.<sup>419</sup> Mr Hodgett's evidence was that Mr Pesutto told him that there had been a rally that was gate crashed by neo-Nazis, that Mrs Deeming was involved and that Mr Pesutto was moving a motion to expel her.<sup>420</sup> Regardless of what Mr Wells understood Mr Pesutto to be saying, Mr Hodgett's version of what was said by Mr Pesutto that night is more likely to accord with the actual words used.
- 13.55. Mr Pesutto did not purport to have a perfect recollection of the call, but said he would have used words to the effect that he used with Mr Hodgett.<sup>421</sup>
- 13.56. In his affidavit, Mr Riordan said he received a phone call from Mr Southwick, who said that Mrs Deeming had organised a Nazi event, had been hanging out with Nazis and partying with them, and that they have all the evidence.<sup>422</sup> Mr Southwick said that was incorrect, and that

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<sup>415</sup> CBB Tab 31, page 370 [20(b)] (Second affidavit of John Pesutto dated 22 July 2024).  
<sup>416</sup> T496.42-46 (Wells XXN).

<sup>417</sup> CBB Tab 27, page 298-299 [15]-[16], [22]-[23] (Affidavit of Kim Wells dated 24 May 2024); CBB Tab 28, page 310 [15(b)] (Second affidavit of Kim Wells dated 9 July 2024).

<sup>418</sup> CBB Tab 27, page 297 [13] (Affidavit of Kim Wells dated 24 May 2024).

<sup>419</sup> CBB Tab 31, page 368-9 [13] (Second affidavit of John Pesutto dated 22 July 2024).

<sup>420</sup> CBB Tab 12, page 195 [5] (Affidavit of David Hodgett dated 27 May 2024).

<sup>421</sup> CBB Tab 31, page 368-9 [13] (Second affidavit of John Pesutto dated 22 July 2024).

<sup>422</sup> CBB Tab 20, page 248 [10] (Affidavit of Richard Riordan dated 24 May 2024).

he has never believed the Rally was a Nazi event, and does not call people Nazis willy-nilly given the historical weight and modern-day significance of the word.<sup>423</sup> Mr Southwick said he would not use the kind of language Mr Riordan alleged, especially as the evidence they had did not support what Mr Riordan accused Mr Southwick of saying.<sup>424</sup> Under cross-examination, Mr Southwick repeatedly and powerfully rejected the allegations made by Mr Riordan about their phone call.<sup>425</sup>

13.57. Mr Riordan's account in his affidavit did not survive cross-examination. When questioned, Mr Riordan could not recall the exact words used by Mrs Southwick,<sup>426</sup> but accepted Mr Southwick said words to the following effect to him:

- (a) Mrs Deeming had been an organiser of an event that day at which the Nazis had attended;<sup>427</sup>
- (b) the other organisers of the Rally had public associations with far-right elements;<sup>428</sup> and
- (c) Mrs Deeming had been recorded drinking champagne with them after the Rally.<sup>429</sup>

13.58. Mr Riordan agreed that the effect or substance of the impression he received from the phone call with Mr Southwick was that Mrs Deeming had been an organiser of an event which had been attended by Nazis.<sup>430</sup> Mr Riordan's account as given in cross-examination should be accepted over his prior affidavit. It is reconcilable with Mr Southwick's account, and accords with Mr Southwick's state of mind at the time of the call.

13.59. At 8:36pm that evening, Mr Pesutto sent an email to parliamentary colleagues giving notice of the Leadership Team's intention to expel Mrs Deeming from the Party.<sup>431</sup>

### *The Media Release*

13.60. Shortly afterwards, Mr Pesutto settled and approved the publication of the Media Release, which was in similar terms.<sup>432</sup>

13.61. It was sent by Mr Woff to the general media distribution contact list at 8:42pm.<sup>433</sup>

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<sup>423</sup> CBB Tab 40, page 475–6 [24] (Second affidavit of David Southwick dated 19 July 2024).

<sup>424</sup> CBB Tab 40, page 476 [25] (Second affidavit of David Southwick dated 19 July 2024).

<sup>425</sup> T1094.18-47 (Southwick XXN).

<sup>426</sup> T440.39-40, T12-13 (Riordan XXN).

<sup>427</sup> T440.26-27 (Riordan XXN).

<sup>428</sup> T440.30-31 (Riordan XXN).

<sup>429</sup> T440.34-35 (Riordan XXN).

<sup>430</sup> T440.42-43; T441.24-26 (Riordan XXN).

<sup>431</sup> CBB Tab 30, page 345 [101] (Affidavit of John Pesutto dated 27 May 2024).

<sup>432</sup> CBB Tab 30, page 345 [102] (Affidavit of John Pesutto dated 27 May 2024).

<sup>433</sup> CBB Tab 42, page 495 [21] (Affidavit of Alex Woff dated 27 May 2024).

13.62. Following the issuing of the Media Release, Mr Johnston received a number of requests from the media for Mr Pesutto to be interviewed the following day, including requests from 3AW, ABC and Sky News. Mr Pesutto told Mr Johnston that he believed it was important to attend a range of interviews to explain the decision to the public and to respond to any questions.<sup>434</sup>

#### 14. 20 March 2023

14.1. Throughout the day, Mr Johnston was fielding ‘dozens’ of media inquiries. He recalls being ‘flat out’ managing the media and communications on the day.<sup>435</sup>

14.2. At about 8:55am, Mr Pesutto participated in the 3AW Interview with Neil Mitchell. Mr Pesutto wanted to do an interview with Neil Mitchell because he had the largest audience among Melbourne's radio shows.<sup>436</sup>

14.3. Shortly after 9:28am on 20 March 2023, Mrs Deeming sent a text message to Annika Smethurst, a journalist at *The Age*, which reveals that Mrs Deeming had fully understood where things had ended up at the 19 March 2023 meeting.<sup>437</sup>

[Mr Pesutto] said there was nothing I could do because he couldn't survive being associated with anybody even associated with anybody else who had associated with Nazis. (Off record)

I offered to do a blanket condemnation of Nazism and anything else but they said no

Because I had drinks with Kelly J, Angela Jones & Kath Deves

(All off record)

14.4. Mrs Deeming's text message to Ms Smethurst warrants emphasis because it reveals Mrs Deeming's state of mind on the morning after being told that Mr Pesutto was moving a motion to expel her. Mrs Deeming was under no illusions about the fact that Mr Pesutto was not expelling her for being a Nazi or a Nazi sympathiser. Mrs Deeming understood full well that Mr Pesutto's concerns related to the fact that Mrs Deeming had associated with people who themselves had associated with Nazis, including by appearing in a video drinking champagne with Ms Keen, Ms Deves and Ms Jones. This is despite what she said about her reaction to the Media Release the evening before in her affidavit.

14.5. At about 9:39am, Mr Pesutto participated in a live interview on the ABC with Michael Rowland, being the ABC Interview.<sup>438</sup>

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<sup>434</sup> CBB Tab 36, page 443 [33] (Affidavit of Nick Johnston dated 24 May 2024).

<sup>435</sup> T1283.36-38 (Johnston XXN).

<sup>436</sup> CBB Tab 30, page 348 [118] (Affidavit of John Pesutto dated 27 May 2024).

<sup>437</sup> Exhibit R138, CBC Tab 153, page 689.

<sup>438</sup> CBB Tab 30, page 349 [122] (Affidavit of John Pesutto dated 27 May 2024).

- 14.6. After Shadow Cabinet, which began at 11am, Mr Pesutto held a press conference given the intense media interest in the Expulsion Motion, being the Press Conference.<sup>439</sup>
- 14.7. At 12:35pm, Mrs Deeming sent an advanced copy of the press release she would post on X at 4:27pm to Sumeyya Ilanbey.<sup>440</sup>
- 14.8. At 4:27pm, Mrs Deeming posted a press release on X (**20 March Press Release**).<sup>441</sup> In the 20 March Press Release, Mrs Deeming stated, among other matters: ‘Let me be clear – I have done nothing wrong. Those who organised the Let Women Speak event on the weekend have done nothing wrong’. Towards the end of the second page of statement, after her defence of Mrs Keen and Ms Jones and a discussion of the culture war that Mrs Deeming intended fight within in the Party, Mrs Deeming also included a more direct condemnation of ‘the actions of the masked men in black who were later identified as Neo-Nazis, who gate-crashed the Let Women Speak event’.
- 14.9. At about 7pm, Mr Sewell participated in a public interview on *Odysee.com* titled ‘The Vanguard – Anti-Paedo protest with Tom Sewell, during which Mr Sewell said the following in response to a question about his motivations for attending Parliament Steps on 18 March 2023:

our goal was to go down there and represent a symbolic ideological uh barrier between these two forces, to say here is the evil, here is the absolute chaos, here is all the freaks and scum of society, and then here is all these people [having previously referred to the LWS rally] that have genuine concerns about child grooming, about safe schools, about what’s going on, and they’re not really organised, they’re not disciplined, there’s no real strength and character to them. They’re kinda lost in the wilderness, and we want to represent like a vanguard, a spearhead and become a separating force, like parting the sea between the two...

But the socialist alternative, and those organisers and all their trannies and all their uni kids and freaks, they actually organised way up at Carlton Gardens, and they came down about an hour later. And they came down as a big group and they running as well, to try to like scare the TERFs and the conservatives and the freedom rally people off...

what I saw was the great rabble of communists, the thin line of us and then all these um mums and dads and grandmas and people brought their kids and some TERFs and middle aged women that have what it called second wave feminist views...

And I said you just booted us out, we tried to get in when we got here and you told us you know they got the horses and they pushed us away and stopped us from coming through...

And you’ve got a group in the middle, a sort of hodge podge of different ideologies and beliefs, but under a common banner that they don’t like the tranny agenda, they don’t like the grooming kids agenda, they don’t like the pronouns at schools, that’s

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<sup>439</sup> CBB Tab 30, pages 349-350 [124] (Affidavit of John Pesutto dated 27 May 2024).

<sup>440</sup> Exhibit R219, CBC Tab 357, page 1909-1911.

<sup>441</sup> Exhibit R39, R223, CBC Tabs 394-5.

kinda what they were talking about. The TERFs were going on about the transgender bathrooms and all this sort of stuff as well and sooking about men beating up women in sports. And then you've got a group of people that show up, and where do you put them? And so they were very happy to just contain us in a little box between both groups...

But we're there in the middle, what do you do with us? And so from their perspective it was, the logical conclusion they would've come to was that we're not going to bash the TERFs.

- 14.10. During the course of the day, Mr Pintos-Lopez led staff from Mr Pesutto's office in putting together the Expulsion Motion and Dossier.<sup>442</sup> This included two or three junior policy advisors conducting research to ensure the veracity of the facts that were to be included in the annexure accompanying the motion.<sup>443</sup> Throughout the day, Mr Pintos-Lopez was also focused on preparing the motion such that it conformed with the requirements of the Liberal Party Constitution.<sup>444</sup>
- 14.11. At 5:42pm, Mr Pesutto served the Expulsion Motion and Dossier on Mrs Deeming via email, to which he copied Ms Crozier, Dr Bach and Mr Southwick.<sup>445</sup> At 6:01pm, Mr Pesutto sent an email to his parliamentary colleagues giving notice of a party room meeting to be held at 10am on 27 March 2023, attaching the Expulsion Motion and Dossier.<sup>446</sup>
- 14.12. At approximately 6pm, Mr Pesutto did an interview with Ms Peta Credlin on Sky News,<sup>447</sup> in which he said the following:

The reason I'm taking action, Peta, is because Moira helped organise a protest that was organised with people who have shared platforms with people who have expressed Nazi sympathies or white supremacist views. ... So, it's about the association, indirectly albeit, but the association with any elements of Nazism, which is just odious to the values of the party, the values of Victoria and Australia.

- 14.13. At approximately 8:22pm, Mrs Deeming offered to send the Expulsion Motion and Dossier to Peta Credlin.<sup>448</sup>
- 14.14. At 8:44pm, *The Age* published an article entitled 'Deeming vows to fight move to expel her from the party room'. Mr Woff gave evidence that, based on his experience in the Party, he formed the impression that a copy of the Expulsion Motion and Dossier had been leaked to

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<sup>442</sup> CBB Tab 30, page 351 [131] (Affidavit of John Pesutto dated 27 May 2024) [131]; CBB Tab 37, page 444 [50] (Affidavit of Rodrigo Pintos-Lopez dated 24 May 2024).

<sup>443</sup> T1242.21-25 (Pintos-Lopez XXN).

<sup>444</sup> T1242.40-44 (Pintos-Lopez XXN).

<sup>445</sup> Annexure JP-19 to Affidavit of John Pesutto dated 27 May 2024.

<sup>446</sup> Exhibit R22, CBC Tab 397.

<sup>447</sup> CBB Tab 30, page 352 [135] (Affidavit of John Pesutto dated 27 May 2024). Exhibit A29, with transcript MFI A30.

<sup>448</sup> Exhibit R176, CBC Tab 235, page 1475.

*The Age*. Mr Johnston's evidence was that it was apparent to him from reading the article in *The Age* that it contained a substantial amount of information that hadn't been provided to them by Mr Pesutto's staff.<sup>449</sup> Mr Pesutto formed the view that it would be damaging to the standing of the Party and the electorate if the Expulsion Motion and Dossier were published without context. He considered that it was in the public interest that his office provide a copy of the entire Expulsion Motion and Dossier to the media in response to requests from the media. Given that allegations were being made about Mrs Deeming, Mr Pesutto thought it was important to provide the document that explained those allegations.<sup>450</sup> Accordingly, he authorised his staff to provide the Expulsion Motion and Dossier in response to requests by the media.<sup>451</sup>

14.15. By 20 March 2023 Mrs Deeming had decided that she was going to commence defamation proceedings if Mrs Pesutto 'didn't fix what he had done'.<sup>452</sup>

## 15. 21 March 2023

15.1. On 21 March 2023, a regularly scheduled Party Room meeting took place.

15.2. Mr Riordan moved a motion to delay consideration of the Expulsion Motion and spoke in support of it.<sup>453</sup>

15.3. There is some debate between the witnesses as to what Mrs Deeming said, meant, and conveyed to the meeting when she spoke about the Expulsion Motion and the content of the Dossier. The evidence appears to be largely consistent that Mrs Deeming, as both Mr Wells and Ms Crozier put it, was 'scoffing' at and 'rubbishing' the content of the document.<sup>454</sup>

15.4. Mr Pesutto recalls that during that meeting, Mrs Deeming spoke while flipping through a copy of the Expulsion Motion and Dossier, explaining away the contents as she did so, including describing the Nazi Barbie doll image as 'hilarious'.<sup>455</sup> Ms Crozier gave unchallenged evidence that Mrs Deeming flippantly flicked through the pages of the Dossier, scoffing at and rubbishing the material about Mrs Keen and Ms Jones.<sup>456</sup>

15.5. Mrs Deeming does not recall using the word 'hilarious', but says she was trying to express that it was absurd, ludicrous and laughable to think the Dossier was evidence to prove what had

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<sup>449</sup> T1286.35-39 (Johnston XXN).

<sup>450</sup> CBB Tab 30, page 353 [141] (Affidavit of John Pesutto dated 27 May 2024).

<sup>451</sup> CBB Tab 30, page 353 [142] (Affidavit of John Pesutto dated 27 May 2024).

<sup>452</sup> T340.40-42 (Deeming XXN).

<sup>453</sup> CBB Tab 20, pages 249-250 [17]-[18] (Affidavit of Richard Riordan dated 24 May 2024)

<sup>454</sup> CBB Tab 34 page 415 [49] (Affidavit of Georgie Crozier dated 27 May 2024); CBB Tab 28, page 313 [28] (Affidavit of Kim Wells dated 24 May 2024).

<sup>455</sup> CBB Tab 30, page 354 [144] (Affidavit of John Pesutto dated 27 May 2024).

<sup>456</sup> CBB Tab 35, page 415 [49] (Second affidavit of Georgie Crozier dated 17 July 2024).



been alleged.<sup>457</sup> She says she was trying to express was that , at worst, the images showed poor taste humour, not support for Nazism.<sup>458</sup> She thought it was a ridiculous document.<sup>459</sup> She says she was ‘scoffing and rubbishing’ the fact that it was being used to justify her expulsion.<sup>460</sup>

- 15.6. Ms Heath says she took minutes of the meeting and says her notation that ‘Moira then went through article by article on the dossier and spoke about how each wasn't true’ was consistent with her recollection. Ms Heath says she found what Mrs Deeming said persuasive.<sup>461</sup> Just what was persuasive, or what was not true is not clear, given almost every fact in the Expulsion Motion and Dossier was later admitted by Mrs Deeming. Ms Heath recalls Mrs Deeming using the word ‘hilarious’ or a word like it and thought she should not have used that word as it was apt to be misunderstood, but it was her clear impression that Mrs Deeming did not think the Dossier was actually funny but that it was ludicrous and could not support her being expelled.<sup>462</sup>
- 15.7. Mr Hodgett does not recall Mrs Deeming describing an image as ‘hilarious’, but recalls her flicking through the Expulsion Motion and Dossier to seek to refute the allegations in it, and says his recollection is that, in effect, she was ridiculing that the contents of the Expulsion Motion and Dossier justified her being expelled.<sup>463</sup>
- 15.8. Mr McCracken does not recall Mrs Deeming flipping through the pages of the Expulsion Motion and Dossier or describing the Nazi Barbie doll image as ‘hilarious’.<sup>464</sup>
- 15.9. Mr Riordan recalls Mrs Deeming attempting to explain why the contents of the Expulsion Motion and Dossier did not justify her expulsion, and that Mrs Deeming's comment to the effect that the image was ‘hilarious’ was her saying it was hilarious that this was the best the Leadership Team had got and that this was the ‘evidence’ being used against her.<sup>465</sup> Mr Riordan observed that Mrs Deeming looked like a nervous wreck.<sup>466</sup>
- 15.10. Mr Smith recalls Mrs Deeming saying words to the effect that to use the Nazi Barbie doll image as evidence that Mrs Keen was a Nazi or had Nazi views was hilarious or ridiculous, not that the image itself was ‘hilarious’.<sup>467</sup>

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<sup>457</sup> CBB Tab 2, pages 92–3 [101] (Second affidavit of Moira Deeming dated 23 July 2024).

<sup>458</sup> CBB Tab 2, pages 92–3 [101] (Second affidavit of Moira Deeming dated 23 July 2024).

<sup>459</sup> CBB Tab 2, pages 92–3 [101] (Second affidavit of Moira Deeming dated 23 July 2024).

<sup>460</sup> CBB Tab 2, page 93 [102] (Second affidavit of Moira Deeming dated 23 July 2024).

<sup>461</sup> CBB Tab 9, page 170 [22] (Affidavit of Renee Heath dated 27 May 2024).

<sup>462</sup> CBB Tab 10, page 185 [12] (Second affidavit of Renee Heath dated 22 July 2024).

<sup>463</sup> CBB Tab 13, page 203 [11] (Second affidavit of David Hodgett dated 30 July 2024).

<sup>464</sup> CBB Tab 16, page 220 [15], [19] (Second affidavit of Joesph John McCracken dated 18 July 2024).

<sup>470</sup> Exhibit R285, CBC Tab 596.

<sup>470</sup> Exhibit R285, CBC Tab 596.

<sup>470</sup> Exhibit R285, CBC Tab 596.

- 15.11. Mr Wells says it was obvious to him that Mrs Deeming was not saying that the image itself was 'hilarious' but rather that it was 'hilarious', in the sense of being ridiculous, that the image had been included in the Expulsion Motion and Dossier as somehow justifying her expulsion.<sup>468</sup> He recalls that Mrs Deeming was, in effect, 'scoffing and rubbishing' that the material had been included in the Expulsion Motion and Dossier.<sup>469</sup>
- 15.12. While there was obviously a divergence in opinion within the Party as to whether Mrs Deeming's conduct warranted expulsion, from the Leadership (and Mr Pesutto's perspective) during the 21 March meeting, Mrs Deeming demonstrated a continued failure to appreciate the implications of her association with Mrs Keen and Ms Jones, having regard to their associations, views and conduct.
- 15.13. The motion to delay was defeated.<sup>470</sup>
- 15.14. At 11:35am, Mrs Deeming texted Shannon Deery, 'I've spoken to my lawyers. Lets have an off the record chat after 1pm if that's ok'.<sup>471</sup> At 5:48pm that day, Mr Deery sent Mrs Deeming the text of a draft article and at 5:53pm, Mrs Deeming replied, 'Yep great although you could reiterate that the SFW event was majority left wing & rainbow community'.<sup>472</sup>
- 15.15. At 5:04pm, Peta Credlin invited Mrs Deeming onto her show, in response to which Mrs Deeming responded 'Thanks so much Peta, I'm so grateful. I need to wait until after the vote. I can speak with you off record and tell you anything you need to know'.<sup>473</sup>

## 16. 22 March 2023

- 16.1. At 12:09pm on 22 March, Mrs Deeming texted Annika Smethurst:<sup>474</sup>

I'm in parliament

Off record I can text

Lawyers have approached me wanting to take this case. Ppl from all over Australia have offered money to pay for a defamation case. I'm working on a mutual solution instead

<sup>470</sup> Exhibit R285, CBC Tab 596.

<sup>470</sup> Exhibit R285, CBC Tab 596.

<sup>470</sup> Exhibit R285, CBC Tab 596.

<sup>471</sup> Exhibit R231, CBC Tab 439, page 2273-2271.

<sup>472</sup> Exhibit R231, CBC Tab 439, page 2273-2274.

<sup>473</sup> Exhibit R176, CBC Tab 235, page 1475-1476.

<sup>474</sup> Exhibit R138, CBC Tab 153, page 691.

**17. 23 March 2023**

17.1. At 11:32pm on 23 March, Mrs Deeming texted Annika Smethurst, 'Now is ok off record'..<sup>475</sup>

17.2. At 12:13pm on 23 March, Mrs Deeming texted Peta Credlin..<sup>476</sup>

Hi Peta, they don't want to work with me. So I'm taking your advice.

I've been speaking to a lawyer & he asked whether or not I can prove that Pesutto's office gave that brief of evidence to any media. You asked for it, and I'm wondering if he gave it to you?

17.3. Ms Credlin replied:

Yes but I did not pass it anywhere. Someone gave it to the Australian clearly. But even just speaking to the brief as he did on Mitchell and my show is enough to make a very strong case. Can you take a call now?

17.4. Mrs Deeming and Ms Credlin proceeded to have a conversation over text from 3:36pm whereby Mrs Deeming backgrounded Ms Credlin..<sup>477</sup>

**18. 25 March 2023**

18.1. On 25 March, Mrs Keen hosted a LWS rally in in Auckland, New Zealand. It was reported that this rally was attended by far-right extremists including people wearing Azov Battalion and Boogaloo Boys insignia, members of white nationalist group Action Zealania, and members of extremist groups Voices for Freedom..<sup>478</sup>

18.2. After 3pm on 25 March, Mrs Deeming and Ms Credlin had a further conversation about Mrs Deeming doing an interview with her..<sup>479</sup>

**19. 26 March 2023**

19.1. Mr Pesutto and Mr Southwick visited the Melbourne Holocaust Centre for a private gathering with no media present. During the visit, a Holocaust survivor shook Mr Pesutto's hand and said to him, 'please don't allow the Holocaust to happen again', to which Mr Pesutto responded, 'we won't and we are with you'..<sup>480</sup> This reiterated to Mr Pesutto that what happened at the Rally serious scared members of the member, particularly in the Jewish Community..<sup>481</sup>

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<sup>475</sup> Exhibit R138, CBC Tab 153, page 692.

<sup>476</sup> Exhibit R176, CBC Tab 235, page 1476.

<sup>477</sup> Exhibit R176, CBC Tab 235, page 1477-1478.

<sup>478</sup> Exhibit R246, CBC Tab 498.

<sup>479</sup> Exhibit R176, CBC Tab 235, page 1479.

<sup>480</sup> CBB Tab 30, pages 354-5 (Affidavit of John Pesutto dated 27 May 2024); CBB Tab 39, page 463 [52] (Affidavit of David Southwick dated 27 May 2024).

<sup>481</sup> CBB Tab 30, pages 354-5 [149] (Affidavit of John Pesutto dated 27 May 2024).

19.2. At about 2:51pm, Mrs Deeming wrote an email to members of the Parliamentary Party with a response to the Expulsion Motion<sup>482</sup> in which she relevantly said:

- (a) 'I deeply regret the trouble this has caused my state and federal colleagues and the wider party membership';
- (b) 'I accept that an experienced person such as [Mr Johnston (it was in fact Mr Pintos-Lopez)] was able to find [the accusations regarding Mrs Keen's associations] in "under ten minutes"';
- (c) 'I acknowledge that I am a new and inexperienced MP, and that I do not adequately understand the unspoken or nuanced expectations that seem to be obvious to other – even to other new MPs';
- (d) 'I acknowledge that I did not follow up on my requests made at our inaugural Coalition conference for specific help with how to wisely manage my pursuit of fairer sex-based protections';
- (e) 'I acknowledge that I did not follow up on my requests, made in an Upper House Parliamentary team meeting, for written guidelines and tips for New MPs'.

19.3. In that email, Mrs Deeming offered to make general condemnations of Nazism and bigotry towards the LGBTQI+ community, including any inferences or claims that being part of that community implies any kind of paedophilia.

19.4. While this email did contain some modest concessions, it stopped short of demonstrating a real appreciation of the issues that could have made the Leadership Team reconsider the motion.

19.5. At 2:58pm, Mrs Deeming told Ms Credlin she sent this email to her off the record and to no other media. Ms Credlin said, 'It will leak but I don't want to leak it unless you want me to do it'.<sup>483</sup>

## **20. 27 March 2023**

20.1. At 6:29am, Mrs Deeming sent an email to her parliamentary colleagues attaching a response to the Expulsion Motion and Dossier prepared by her lawyers,<sup>484</sup> in which Mrs Deeming, among other things:

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<sup>482</sup> Exhibit R41, CBC Tab 468.

<sup>483</sup> Exhibit R176, CBC Tab 235, page 1480.

<sup>484</sup> Exhibit R42, CBC Tab 473.

- (a) conceded her participation in the Rally may have been an error of judgment;<sup>485</sup>
  - (b) said Mrs Keen did an interview with Gariepy;
  - (c) said of Keen's use of a barbie doll in Nazi uniform, 'Mrs Keen made a poor distasteful joke, which I unreservedly condemn, in an attempt to mock a far-left activist who had called her a Nazi Barbie doll';
  - (d) stated of Lisa Morgan's speech quoting Hitler, 'I, however, unreservedly condemn any use of Hitler as an analogy or device to criticise modern behaviour whether by the left, right or anyone'; and
  - (e) of Ms Jones and the Jones tweet: 'I unreservedly condemn her use of a Nazi analogy'..<sup>486</sup>
- 20.2. Mr Pesutto considered Mrs Deeming's email in the hours before the party room meeting to be too little too late, and a desperate attempt to avoid expulsion..<sup>487</sup> Mr Southwick thought it was insincere..<sup>488</sup> Dr Bach considered it to be a clear tactic to persuade undecided voters to vote against the motion because she had been intransigent that she had done nothing wrong at the time..<sup>489</sup>
- 20.3. At 10am, the party room meeting was held. The meeting ran for approximately 2 hours with 25 members assigned speaking time..<sup>490</sup> Mr Pesutto moved the motion and spoke to it. He recalls it being an emotional and heavily charged meeting..<sup>491</sup>
- 20.4. Dr Bach, Ms Crozier and Mr Southwick each spoke in favour of the motion and urged people to vote for it. Mr McCracken, Mr Wells, Mr Riordan, Mr McGowan, Ms McArthur, Mr Smith, Mr Crewther and Ms Heath spoke against it..<sup>492</sup>
- 20.5. Mrs Deeming was the last person to speak. She made a personal statement which included very personal disclosures. A number of members present became emotional and were in tears..<sup>493</sup>

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<sup>485</sup> T314.45-47 (Deeming XXN).

<sup>486</sup> See also T315.1-316.14 (Deeming XXN).

<sup>487</sup> CBB Tab 30, page 355 [152] (Affidavit of John Pesutto dated 27 May 2024).

<sup>488</sup> CBB Tab 39 page 464 [54] (Affidavit of David Southwick dated 27 May 2024).

<sup>489</sup> CBB Tab 32, page 397 [49] (Affidavit of Matt Bach dated 26 May 2024).

<sup>490</sup> Exhibit R240, CBC Tab 482.

<sup>491</sup> CBB Tab 30, page 356 [157] (Affidavit of John Pesutto dated 27 May 2024).

<sup>492</sup> Exhibit R240, CBC Tab 482.

<sup>493</sup> CBB Tab 30, page 356 [158] (Affidavit of John Pesutto dated 27 May 2024).

- 20.6. Mr Pesutto decided that it was not appropriate to seek immediately to expel a woman who had just disclosed those matters. Mr Pesutto began turning his mind to a lesser sanction.<sup>494</sup> As the Chair of the party room meeting, Mr Pesutto decided it was untenable for the Party to emerge from the meeting having expelled a person who had revealed those experiences.<sup>495</sup> In response to questioning from the cross-examiner and the Court, Mr Pesutto explained that while the revelations were not related to the allegations the subject of the motion to expel, there was ‘some empathy and understanding of what we’d been told’, such that the revelations were, in essence, a mitigating factor. Mr Pesutto correctly made the point that it is not unusual for factors in mitigation to have nothing to do with the grounds on which a disciplinary matter is originally raised.<sup>496</sup>
- 20.7. Following Mrs Deeming’s speech, Mr Pesutto considered it appropriate to adjourn the meeting. During that adjournment, Mr Wells, Mr Hodgett, Mr Smith and Mr Southwick acted as intermediaries to negotiate an outcome for the Party room that was not expulsion of Mrs Deeming.
- 20.8. What was agreed in that adjournment and at that meeting has been the subject of significant disputation, however it is in truth simple and may be put shortly:
- (a) the agreement reached is reflected in the contemporaneous notes taken by Ms Heath, with which almost every witness fundamentally agreed;<sup>497</sup> and
  - (b) there was an ambiguity in the nature of the ‘joint statement’,<sup>498</sup> which was resolved at by the adoption of approved minutes at a Party Room meeting on 12 May 2023,<sup>499</sup> when the question was debated and resolved.<sup>500</sup>
- 20.9. Ms Heath’s notes show that upon resumption, the following compromise was announced and motion moved accordingly:<sup>501</sup>

The promised compromised –

- moira to be suspended from the party room for 9 months
- a joint statement

<sup>494</sup> CBB Tab 30, page 356 [159] (Affidavit of John Pesutto dated 27 May 2024).

<sup>495</sup> T868.24-30 (Pesutto XXN).

<sup>496</sup> T869.1-12 (Pesutto XXN).

<sup>497</sup> An exception being Mr Wells: T503.14-15 (Wells XXN).

<sup>498</sup> For example, T466.44-467.25 (Hodgett XXN).

<sup>499</sup> For example, T468.15-16 (XXN); Exhibit R64, CBC Tab 597; T889.44-47 (Pesutto XXN).

<sup>500</sup> T889.44-47 (Pesutto XXN).

<sup>501</sup> Exhibit R240, CBC Tab 482.

- a media statement this statement will make clear that no one was accusing Moira of being a Nazi, or Nazi sympathiser.

Effective: 9 months from this meeting.

Motion:

- nine months suspension immediately
- joint statement from the leaders office in conjunction with Moira
- we will release a statement that she is not a Nazi

20.10. These were the precise words used by Mr Pesutto when the compromise was announced,<sup>502</sup> captured as best as Ms Heath could.<sup>503</sup> Mrs Deeming agreed the meeting notes were the ‘closest’ record of what was agreed at the 27 March 2023 meeting,<sup>504</sup> but when the terms of the meeting notes were read to her, Mrs Deeming said that Ms Heath ‘actually fixed it up better later in her second draft, but it’s the same general gist of what you are saying’, although Mrs Deeming vaguely suggested she still ‘had complaints’.<sup>505</sup>

20.11. No other motion was put to the Party room in respect of Mrs Deeming that day.<sup>506</sup>

20.12. Mrs Deeming alleges that the agreement or compromise reached in this agreement is that:

- it was agreed that the statement that would be issued would be released by both Mrs Deeming and Mr Pesutto under both of their letterheads;<sup>507</sup>
- the agreed statement to be released by both Mr Pesutto and Mrs Deeming would exonerate Mrs Deeming from all claims.<sup>508</sup>

20.13. Mrs Deeming in fact does not remember the words that were spoken.<sup>509</sup>

20.14. Mrs Deeming's evidence is inconsistent with all documentary records of what occurred at the meeting, including Ms Heath's contemporaneous notes of what took place, and is only somewhat supported by one of Mrs Deeming's witnesses, Mr Wells. Mr Wells contends the agreement described by Mrs Deeming was a separate agreement to that reflected in the meeting

<sup>502</sup> T416.41 (Heath XXN).

<sup>503</sup> T419.18-26 (Heath XXN).

<sup>504</sup> T328.43-45 (Deeming XXN).

<sup>505</sup> T330.24-29 (Deeming XXN).

<sup>506</sup> T420.23-24 (Heath XXN).

<sup>507</sup> CBB Tab 1, page 38 [188(c)] (Affidavit of Moira Deeming dated 27 May 2024); CBB Tab 9, page 171 [27]–[28] (Affidavit of Renee Heath dated 27 May 2024); CBB Tab 12, page 198 [23] (Affidavit of David Hodgett dated 30 July 2024); CBB Tab 15, page 215 [24(c)] (Affidavit of Joseph John McCracken dated 27 May 2024); CBB Tab 20, page 251 [28] (Affidavit of Richard Riordan dated 24 May 2024); CBB Tab 23, page 271 [36] (Affidavit of Ryan Smith dated 21 May 2024); CBB Tab 28, page 300 [31]–[32] (Second affidavit of Kim Wells dated 9 July 2024)

<sup>508</sup> CBB Tab 1, page 38 [188(c)] (Affidavit of Moira Deeming dated 27 May 2024); CBB Tab 24, page 281 [24] (Second Affidavit of Ryan Smith); CBB Tab 27, page 300 [31]–[32] (Affidavit of Kim Wells dated 24 May 2024).

<sup>509</sup> T318.35 (Deeming XXN).

notes. Mrs Deeming was not a party to any such conversation with Mr Pesutto.<sup>510</sup> Her knowledge of what happened in discussions with Mr Pesutto, is confined to what she was told by Mr Wells, Mr Smith, Mr Hodgett and Mr Southwick.<sup>511</sup> Mrs Deeming's evidence on this point was telling.<sup>512</sup>

**Mrs Deeming:** I will agree with you that, whatever that says, those three points, I was not 100 per cent satisfied — but as a summary, they were consistent — but you're correct, that the details of it, I can't claim that Mr Pesutto heard — I had to take David Southwick's word for it, Mr Wells' word for it, Mr Smith's word for it, and Mr Hodgett's word for it.

**Dr Collins:** Yes. And that's the central flaw, isn't it, Ms Deeming, in your entire theory that you have a misunderstanding about what happened, based upon what people other than Mr Pesutto told you?---Yes. I regret very much trusting those people.

- 20.15. Mr Hodgett, who was called by Mrs Deeming as a witness, gave frank and telling evidence. He explained that Mr Pesutto never said to him, or in his presence, that Mrs Deeming was entitled to be exonerated from all accusations against her regarding the Rally, or the Expulsion Motion and Dossier.<sup>513</sup> He did not observe any person say to Mr Pesutto that Mrs Deeming was looking for a full exoneration on those matters.<sup>514</sup>
- 20.16. Mr Wells on the other hand, said that the purpose of the compromise was that Mrs Deeming was to 'receive a full exoneration and a joint public statement with Mr Pesutto, and that it would save Mr Pesutto's leadership'.<sup>515</sup> Mr Wells alleged Mr Pesutto said this to him and Mr Smith,<sup>516</sup> who makes no mention whatsoever about any suggestion that Mrs Deeming was to receive a full exoneration, and in fact says the proposed compromise in Ms Heath's meeting notes is consistent with his understanding of what took place. When Mr Pesutto read out the compromise and motion – plainly inconsistent with Mr Wells' evidence – Mr Wells says he assumed Mr Pesutto 'was summarising'.<sup>517</sup>

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<sup>510</sup> T317.25 (Deeming XXN).  
<sup>511</sup> T317.31-33 (Deeming XXN).  
<sup>512</sup> T324.28-36 (Deeming XXN).  
<sup>513</sup> T465.17-22 (Hodgett XXN).  
<sup>514</sup> T465.24-30 (Hodgett XXN).  
<sup>515</sup> T504.3-4 (Wells XXN).  
<sup>516</sup> T504.20-22 (Wells XXN).  
<sup>517</sup> T504.18 (Wells XXN).



### *Joint statement*

- 20.17. Mr Pesutto and the Leadership Team considered that a ‘joint statement’ meant a statement that would be jointly prepared, namely published by Mrs Deeming but with input into the drafting from Mr Pesutto’s team.<sup>518</sup>
- 20.18. Mr Pesutto says he wanted to be able to ‘hold the pen’ to make sure Mrs Deeming said what he felt she needed to say. He never contemplated, and never would have, appearing on a joint media release with Mrs Deeming in relation to her statement about her involvement at the Rally.<sup>519</sup> Consistently with this, in Mr Southwick’s view, a public statement from both Mr Pesutto and Mrs Deeming would have made no sense.<sup>520</sup> Dr Bach says this would have been absurd.<sup>521</sup>
- 20.19. Mr Pesutto considers that some may have conflated the ‘joint statement’ with another part of the agreement, that Mr Pesutto was willing to confirm publicly that no one was accusing Mrs Deeming of being a Nazi or a Nazi sympathiser.<sup>522</sup>
- 20.20. Mr Pesutto acknowledges that he could and should have been clearer in saying that no one was accusing Mrs Deeming of being a Nazi or a Nazi sympathiser in his press conference on 27 March, but says he did so in his press conference on 4 May 2023.<sup>523</sup>
- 20.21. There is no doubt that there was a divergence in opinion on what was meant by ‘joint statement’. Mr Hodgett gave evidence that there was ‘a lot of confusion about whether it was a joint statement or a jointly prepared statement.’<sup>524</sup> That divergence was resolved by the adoption of the minutes of the 27 March meeting on 12 May 2023.

### *Full exoneration*

- 20.22. One those Mrs Deeming now regrets trusting, Mr Hodgett, gave frank evidence. He explained that Mr Pesutto never said to him, or in his presence, that Mrs Deeming was entitled to be exonerated from all accusations against her regarding the Rally, or the Expulsion Motion and

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<sup>518</sup> CBB Tab 30, page 356 [161] (Affidavit of John Pesutto dated 27 May 2024); CBB Tab 34, page 417 [59] (Affidavit of Georgie Crozier dated 27 May 2024); CBB Tab 39, page 464–5 [62] (Affidavit of David Southwick dated 27 May 2024).

<sup>519</sup> CBB Tab 30, page 356 [161] (Affidavit of John Pesutto dated 27 May 2024).

<sup>520</sup> CBB Tab 40, page 478 [38] (Second affidavit of David Southwick dated 19 July 2024).

<sup>521</sup> CBB Tab 32, page 398 [56] (Affidavit of Matt Bach dated 16 July 2024).

<sup>522</sup> CBB Tab 31, page 371 [23(a)], page 372 [26], [28] (Second affidavit of John Pesutto dated 22 July 2024).

<sup>523</sup> CBB Tab 31, pages 385–386 [72(g)] (Second affidavit of John Pesutto dated 22 July 2024).

<sup>524</sup> T467.24-25 (Hodgett XXN).

Dossier.<sup>525</sup> He did not observe any person say to Mr Pesutto that Mrs Deeming was looking for a full exoneration on those matters.<sup>526</sup>

20.23. Mr Wells on the other hand, said that the purpose of the compromise was that Mrs Deeming was to 'receive a full exoneration and a joint public statement with Mr Pesutto, and that it would save Mr Pesutto's leadership'.<sup>527</sup> Mr Wells alleged Mr Pesutto said this to him and Mr Smith<sup>528</sup> (who gave no such evidence, and in fact says the proposed compromise in Ms Heath's meeting notes is consistent with his understanding of what took place). When Mr Pesutto read out the compromise and motion – plainly inconsistent with Mr Wells' evidence – Mr Wells says he assumed Mr Pesutto 'was summarising'.<sup>529</sup>

20.24. Mr Pesutto denies that the agreed compromise would completely exonerate Mrs Deeming.<sup>530</sup> Mr Pesutto says this was never discussed or on the table, and does not make any sense as if Mrs Deeming was to be fully exonerated there would have been no need for a suspension.<sup>531</sup> Mr Pesutto was clear that it was 'not right' that Mr Wells told him, in substance that 'Mrs Deeming would not agree to a compromise unless there was a full exoneration and a joint statement' from Mr Pesutto and Mrs Deeming.<sup>532</sup> Mr Pesutto was unshaken that there was 'no way I would have accepted an exoneration at that stage. This was about the sanction'.<sup>533</sup>

20.25. He explained:<sup>534</sup>

**Ms Chrysanthou:** It's right, isn't it, that in the 10 minutes or 15 minutes or however long the break was, when the compromise was being made, you never said to Mr Wells or Mr Hodgett or Mr Smith that you stood by the allegations in the dossier?

**Mr Pesutto:** I didn't feel I needed to, your Honour. It seemed to be fairly self-explanatory and quite obvious that we wouldn't be suspending somebody for any period, let alone nine months, if something wrong hadn't occurred. And however much Mrs Deeming disputes that, and I recognise she does, I don't think there's any universe in which any reasonable person thought we were suspending without cause.

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<sup>525</sup> T465.17-22 (Hodgett XXN).

<sup>526</sup> T465.24-30 (Hodgett XXN).

<sup>527</sup> T504.3-4 (Wells XXN).

<sup>528</sup> T504.20-22 (Wells XXN).

<sup>529</sup> T504.18 (Wells XXN).

<sup>530</sup> CBB Tab 31, page 385 [72(e)] (Second affidavit of John Pesutto dated 22 July 2024).

<sup>531</sup> CBB Tab 31, page 372 [24] (Second affidavit of John Pesutto dated 22 July 2024).

<sup>532</sup> T856.29-31 (Pesutto XXN).

<sup>533</sup> T856.34-35 (Pesutto XXN).

<sup>534</sup> T867.26-33 (Pesutto XXN).

- 20.26. The purpose of the sanction was not save face as leader — it was to sanction Mrs Deeming but allow a pathway back. That is, Mrs Deeming’s personal disclosures went to mitigation of the outcome, rather than withdrawing the motion itself.<sup>535</sup>
- 20.27. Ms Crozier said there was never a promise of full exoneration and this was never said at the time, and that she only heard of Mrs Deeming’s view that she was entitled to a full exoneration a few weeks later.<sup>536</sup>
- 20.28. Mr Southwick said the words ‘exoneration’ and/or ‘full exoneration’ were never used or implied in any of their discussions, the focus of which was to negotiate the length of Mrs Deeming’s suspension. It would have been completely illogical to suspend Mrs Deeming and ‘fully exonerate’ her at the same time.<sup>537</sup> Mr Southwick put it aptly when he said ‘how would anyone ever be exonerated if they actually, at the same time were prepared to take a nine months [suspension]? It would be like going to jail without committing a crime’.<sup>538</sup>
- 20.29. Mrs Deeming herself agreed there was nothing in the meeting notes that records any discussion or agreement about the allegations in the Expulsion Motion and Dossier being withdrawn,<sup>539</sup> or to the effect she was entitled to be exonerated from all the allegations contained in the Expulsion Motion and Dossier, but faintly asserted it was ‘implied’.<sup>540</sup>
- 20.30. In the circumstances, Mr Pesutto’s account of what was agreed at the meeting (which is consistent with almost all witnesses on both sides, and the contemporaneous records of the meeting) should be accepted.

*Mrs Deeming sends her speech to Ms Credlin*

- 20.31. At 12:19pm, after the meeting, Mrs Deeming texted Ms Credlin ‘I can call in 10. I need to hold off on the interview but I’ll give you everything, my speech the blow by blow’. At 3:17pm Mrs Deeming texted, ‘Ok I’m holding off for now. But the exclusive is still yours after Aston. Plus you can have my speech which nobody else has’. Ms Credlin asked for Mrs Deeming’s speech.<sup>541</sup> At 4:38pm, Mrs Deeming’s executive assistant sent her speech to Ms Credlin.<sup>542</sup>

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<sup>535</sup> T867.35-47 (Pesutto XXN).

<sup>536</sup> CBB Tab 35, page 424 [21] (Second affidavit of Georgie Crozier dated 17 July 2024).

<sup>537</sup> CBB Tab 40, page 477 [36]–[37] (Second affidavit of David Southwick dated 19 July 2024).

<sup>538</sup> T1110.23-26 (Southwick XXN).

<sup>539</sup> T330.44-47 (Deeming XXN).

<sup>540</sup> T331.4-10 (Deeming XXN).

<sup>541</sup> Exhibit R176, CBC Tab 235, page 1481-1482.

<sup>542</sup> Exhibit R241, CBC Tab 483.

*Press Conference, 3AW Interview and ABC 7:30 Report*

- 20.32. Shortly after the meeting, Mr Pesutto did a press conference,<sup>543</sup> with Mr Southwick, Ms Crozier and Dr Bach standing alongside him.
- 20.33. Mr Pesutto was criticised for what he said during this press conference. Remarkably, Mrs Deeming even sought aggravated damages over it. As Mr Pesutto said, the transcript of that press conference speaks for itself.<sup>544</sup> He – appropriately – indicated to the press corps that he was ‘not going to expand upon’ the personal reasons Mrs Deeming disclosed.<sup>545</sup> It would have been completely inappropriate to do so, given Mrs Deeming had herself not shared that information publicly prior to the meeting and Mr Pesutto did not feel it was his place to share Mrs Deeming’s sensitive and private personal disclosures to anyone outside the Party room.<sup>546</sup> In any event, Mr Pesutto made it abundantly clear throughout the press conference that it was the concessions made by Mrs Deeming *combined* with her personal disclosures at the 27 March meeting that caused him to reconsider the sanction to be imposed.<sup>547</sup>
- 20.34. It was repeatedly put to Mr Pesutto and his witnesses that he lied to ‘promote’ his ‘position as correct’.<sup>548</sup> He also denied ‘lying’ to ‘paint’ Mrs Deeming ‘as unreasonable’.<sup>549</sup> Mr Southwick disagreed that Mr Pesutto lied.<sup>550</sup> The motion was not withdrawn because he knew they were going to lose;<sup>551</sup> or to ‘save face’ for Mr Pesutto — that ‘had nothing to do with it’.<sup>552</sup> Ms Crozier denied Mr Pesutto lied in the press conference.<sup>553</sup> Dr Bach did not think he had lied.<sup>554</sup>
- 20.35. That criticism of Mr Pesutto for his conduct of that press-conference is completely misplaced. The only legitimate criticism that can be made is, as Mr Pesutto candidly conceded in his affidavits, that he did not make the express statements he intended to and thought he had ‘that the Leadership Team had never accused Mrs Deeming of being a Nazi or a Nazi sympathiser’.<sup>555</sup>
- 20.36. Mr Pesutto also gave an interview with 3AW<sup>556</sup> and the ABC’s *7:30 Report* that day.

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<sup>543</sup> Exhibit A204, CBC Tab 493. Exhibit A27; MFI A28 (Transcript).  
<sup>544</sup> T859.40 (Pesutto XXN).  
<sup>545</sup> T859.37-40 (Pesutto XXN).  
<sup>546</sup> CBB Tab 31, page 374-5 [32] (Second affidavit of John Pesutto dated 22 July 2024).  
<sup>547</sup> T862.33-37 (Pesutto XXN).  
<sup>548</sup> T861.28-38; T862.11-15 (Pesutto XXN).  
<sup>549</sup> T862.17-25 (Pesutto XXN).  
<sup>550</sup> T1107.2-3 (Southwick XXN).  
<sup>551</sup> T1108.16 (Southwick XXN).  
<sup>552</sup> T1110.16-17 (Southwick XXN).  
<sup>553</sup> T1164.39-40 (Crozier XXN).  
<sup>554</sup> T986.16-20 (Bach XXN).  
<sup>555</sup> CBB Tab 31, page 373 [30] (Second affidavit of John Pesutto dated 22 July 2024).  
<sup>556</sup> Exhibit A19, with transcript Exhibit A20.

### *Drafting the statement*

- 20.37. After the meeting, Mr Southwick, Mr Johnston, Mr Hodgett, Mr Pintos-Lopez and Mrs Deeming met in the party room to discuss the statement. Mr Johnston had prepared a draft statement.<sup>557</sup> Mr Johnston provided Mrs Deeming with a draft copy of the statement, and she was unhappy with it, such that she got up and stormed out of the room.<sup>558</sup>
- 20.38. Mrs Deeming says that in this meeting, she asked where in the statement was the exoneration that she had been promised, and asked where Mr Pesutto was, to which Mr Southwick said he was representing the Leadership Team and that she had to get her half done first. Mrs Deeming says Mr Southwick said if she did not sign the statement, they would have to recall all the MPs back into the party room for another vote, that everyone would be furious at her and she would definitely be expelled this time, and her career would be over. Mrs Deeming considered that Mr Southwick was threatening her career.<sup>559</sup> Mr Hodgett also says Mrs Deeming asked where Mr Pesutto's words were, and that he understood there would be two statements merged and put together on a joint masthead, exonerating Mrs Deeming.<sup>560</sup>
- 20.39. Mr Southwick says Mrs Deeming did not ask her where the exoneration was that she had been promised.<sup>561</sup> He says he never said anything about 'her half' of the statement.<sup>562</sup> Mr Southwick says the draft statement that was presented to Mrs Deeming was only a starting point for discussion and there was no suggestion she had to sign that version or face expulsion. Mr Southwick says he never said her career would be over if she did not sign the statement, but did say if it could not be agreed they would need to go back to the party room. He denies threatening Mrs Deeming's career.<sup>563</sup> He was surprised at Mrs Deeming's reaction of fury and anger to the draft statement, given it was a starting point for discussion rather than a mandated final statement, and his understanding that the draft statement reasonably reflected the compromise reached in the meeting earlier that day.<sup>564</sup>

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<sup>557</sup> Exhibit R43, CBC Tab 494.

<sup>558</sup> CBB Tab 1, page 39 [195]–[196] (Affidavit of Moira Deeming dated 27 May 2024); CBB Tab 12, page 198 [25] (Affidavit of David Hodgett dated 27 May 2024); CBB Tab 36, page 435 [45] (Affidavit of Nick Johnston dated 24 May 2024); CBB Tab 37 page 446 [63] (Affidavit of Rodrigo Pintos-Lopez dated 24 May 2024); CBB Tab 39, page 465 [65] (Affidavit of David Southwick dated 27 May 2024).

<sup>559</sup> CBB Tab 1, page 39 [196] (Affidavit of Moira Deeming dated 27 May 2024).

<sup>560</sup> CBB Tab 12, page 198 [26] (Affidavit of David Hodgett dated 27 May 2024); CBB Tab 13, page 203 [12] (Second affidavit of David Hodgett dated 30 July 2024).

<sup>561</sup> CBB Tab 40, page 478 [42(b)] (Second affidavit of David Southwick dated 19 July 2024).

<sup>562</sup> CBB Tab 40, page 478 [42(c)] (Second affidavit of David Southwick dated 19 July 2024).

<sup>563</sup> CBB, page 479, [42(d)] (Second affidavit of David Southwick dated 19 July 2024).

<sup>564</sup> CBB, page 478, [41] (Second affidavit of David Southwick dated 19 July 2024).

- 20.40. Both Mrs Deeming<sup>565</sup> and Mr Southwick<sup>566</sup> spoke on the phone with Mr Wells after this meeting.
- 20.41. Mrs Deeming returned to the party room, this time with Mr Deeming. In this second meeting with Mr Southwick, Mr Johnston and Mr Hodgett, Mrs Deeming and Mr Johnston worked off Mr Johnston's laptop to agree a form of words.<sup>567</sup>
- 20.42. Mrs Deeming says that in this second meeting Mr Southwick kept trying to pressure her to denounce LWS, Mrs Keen and Ms Jones.<sup>568</sup> Mr Deeming also says this.<sup>569</sup> Mr Southwick denies this, and says his sole concern was that Mrs Deeming unreservedly denounce any commentary adopting Nazi symbols, rhetoric or analogy, which was reflected in the first draft statement.<sup>570</sup> He says Mrs Deeming's account is inconsistent with and goes further than the first draft statement, which only condemned the commentary of Mrs Keen and Ms Jones, in the context of Nazism and hurt to the LGBTQI+ community. In circumstances where Mrs Deeming had rejected that draft, it would make no sense for Mr Southwick to have pressed her to make a statement that went even further.<sup>571</sup>
- 20.43. Mrs Deeming says that in this meeting, she said if full exoneration was off the table, then it was over.<sup>572</sup> Mr Southwick says Mrs Deeming never used the term 'full exoneration'.<sup>573</sup> Mrs Deeming had just received the very serious sanction of a nine-month suspension; it would make no sense for her to be exonerated in any statement.<sup>574</sup>
- 20.44. Mrs Deeming says Mr Southwick said she was in this situation because she had refused to condemn the social media posts in the meeting on 19 March, to which Mrs Deeming said she had never seen those posts because the Leadership Team refused to show them to her during that meeting and Mr Southwick said this was because they didn't have the evidence organised at the time of the 19 March meeting.<sup>575</sup> Mr Deeming says Mrs Deeming said the Leadership Team hadn't shown her the evidence at the meeting on Sunday and Mr Southwick replied that they didn't have the evidence on Sunday.<sup>576</sup> Mr Southwick says this account is incorrect. He

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<sup>565</sup> CBB Tab 1, page 40 [197] (Affidavit of Moira Deeming dated 27 May 2024); CBB Tab 27, page 301 [34] (Affidavit of Kim Wells dated 24 May 2024).

<sup>566</sup> CBB Tab 39, page 465 [66] (Affidavit of David Southwick dated 27 May 2024).

<sup>567</sup> CBB Tab 36, page 435–6 [47]–[49] (Affidavit of Rodrigo Pintos-Lopez dated 24 May 2024); CBB Tab 39, page 465 [68] (Affidavit of David Southwick dated 27 May 2024).

<sup>568</sup> CBB Tab 1, page 40 [199], [202] (Affidavit of Moira Deeming dated 27 May 2024).

<sup>569</sup> CBB Tab 4, page 125 [74] (Affidavit of Andrew Stephen Deeming dated 27 May 2024).

<sup>570</sup> CBB Tab 40, page 479, [44], page 481 [54] (Second affidavit of David Southwick dated 19 July 2024).

<sup>571</sup> CBB Tab 40, page 481 [55] (Second affidavit of David Southwick dated 19 July 2024).

<sup>572</sup> CBB Tab 1, page 40 [199] (Affidavit of Moira Deeming dated 27 May 2024).

<sup>573</sup> CBB Tab 40, page 479 [45] (Second affidavit of David Southwick dated 19 July 2024).

<sup>574</sup> CBB, page 480 [49] (Second affidavit of David Southwick dated 19 July 2024).

<sup>575</sup> CBB, page 40, [200] (Affidavit of Moira Deeming dated 27 May 2024).

<sup>576</sup> CBB Tab 4, page 125 [74] (Affidavit of Andrew Stephen Deeming dated 27 May 2024).

was aware Mr Pintos-Lopez organised the evidence that ultimately formed the Dossier prior to the 19 March meeting, which was presented to Mrs Deeming in that meeting.<sup>577</sup>

20.45. Mrs Deeming says Mr Southwick kept repeating that the problem they had was that Mrs Deeming had contradicted Mr Pesutto with her tweet earlier that day (identified in the following paragraph) that she had never condemned Mrs Keen, Ms Jones and Let Women Speak.<sup>578</sup> Mr Deeming says that Mr Southwick said what mattered was that Mrs Deeming's statements would be seen to be 'contradicting the leader'.<sup>579</sup> Mr Southwick does not recall saying this or raising Mrs Deeming's tweet with her, but does recall being angered by it.<sup>580</sup>

20.46. During the course of the afternoon, at 5:25pm on 27 March 2023, Mrs Deeming publicly tweeted, in response to a tweet by Ms Jones, 'Don't worry, I never condemned you, or KD or KJ'.<sup>581</sup> KD was a reference to Katherine Deves. KJ was a reference to Mrs Keen. Mr Pesutto became aware of this tweet later in the evening. He considered Mrs Deeming's tweet strange and frustrating because it directly contradicted her email from 6:29am that morning and also the statement that she had agreed to be published following the Party room meeting.<sup>582</sup>

20.47. In WhatsApp correspondence with Mr Woff, Mrs Deeming agreed to the wording of the statement to be released in her name.<sup>583</sup> In the statement Mrs Deeming said, among other things:<sup>584</sup>

- (a) 'I have accepted that my attendance at the Let Women Speak event on the steps of the Victorian Parliament on Saturday 18 March may have been an error of judgement.'
- (b) 'As I have stated, I unreservedly condemn the poor taste Nazi jokes and Nazi analogies listed in the annex of evidence against me.'
- (c) 'I have repeatedly and consistently condemned these heinous views, and I reiterate my condemnation of these views in the strongest possible terms.'

20.48. Mrs Deeming asserted that her response to Mr Woff, 'Yep, great', was not acceding to the statement being sent out on her behalf. She also asserted that she didn't respond or dispute when Mr Woff responded 'thank you, sending now' because she was 'devastated' and felt 'tricked'.<sup>585</sup> Despite an exchange with Mr Woff plainly to the contrary, she said I 'don't agree

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<sup>577</sup> CBB Tab 40, page 480, [47], [51] (Second affidavit of David Southwick dated 19 July 2024).

<sup>578</sup> CBB Tab 1, page 40 [201] (Affidavit of Moira Deeming dated 27 May 2024).

<sup>579</sup> CBB Tab 4, page 125 [74] (Affidavit of Andrew Stephen Deeming dated 27 May 2024).

<sup>580</sup> CBB Tab 40, page 480 [52] (Second affidavit of David Southwick dated 19 July 2024).

<sup>581</sup> Exhibit R48, CBC Tab 484.

<sup>582</sup> CBB Tab 30, page 358 [168] (Affidavit of John Pesutto dated 27 May 2024).

<sup>583</sup> Exhibit R44, CBC Tab 486. See also Exhibit R45, CBC Tab 487.

<sup>584</sup> Exhibit R45, CBC Tab 487.

<sup>585</sup> T320.35-40 (Deeming XXN).

that that's sent on my behalf because I was deceived'.<sup>586</sup> That explanation is illogical, and contrary to Mrs Deeming's subsequent message exchange with Peta Credlin in which Mrs Deeming said, among other things '...I'm not publishing it anywhere lol. I'll send it to you but they had to put it out themselves lol'.<sup>587</sup> Mrs Deeming then sent through a copy of the statement dated 27 March 2023.<sup>588</sup> Far from being 'devastated' or 'tricked', Mrs Deeming was laughing about it to Ms Credlin. Mrs Deeming made the faint assertion during cross-examination that her message to Ms Credlin was in response to feeling humiliated,<sup>589</sup> but this should be rejected as an obvious attempt to retrospectively justify an unhelpful piece of evidence that contradicted her affidavit evidence.

20.49. At 7:08pm on 27 March 2023, the statement approved by Mrs Deeming was published by Mr Pesutto's office.<sup>590</sup>

20.50. After 9:01pm, Ms Credlin asked Mrs Deeming, 'Did you get your statement as promised?', to which Mrs Deeming responded (as extracted above), 'I argued for hours. I stormed out once. And I'm not publishing it anywhere lol. I'll send it to you but they had to put it out themselves lol'.

## **21. 28 and 29 March 2023**

21.1. At 9:32am, Sumeyya Ilanbey asked Mrs Deeming if she will be responding to Mr Pesutto saying she was not off to a good start in her suspension with her 27 March 2023 5:25pm tweet, to which Mrs Deeming said, 'No comment', but 'Off record- he can talk!!' <sup>591</sup>

21.2. At 4:55pm on 28 March 2023, Mrs Deeming sent an email to Mr Pesutto and Ms Heath in relation to the suspension motion and the minutes from the Party Room Meeting.<sup>592</sup>

21.3. Contrary to the position suggested by both Mrs Deeming and Ms Heath's affidavit evidence, Mrs Deeming had received the meeting notes from Ms Heath's by the morning of 29 March 2023,<sup>593</sup> contrary to the directive Ms Heath had been given by Mr Pesutto, as explained in greater detail in the principal submissions.

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<sup>586</sup> T321.29-30 (Deeming XXN).

<sup>587</sup> Exhibit R176, CBC Tab 235, page 1482.

<sup>588</sup> Exhibit R176, CBC Tab 235, page 1482-1483.

<sup>589</sup> T323.16-17 (Deeming XXN).

<sup>590</sup> Exhibit R45, CBC Tab 487.

<sup>591</sup> CBC Tab 357, page 1914.

<sup>592</sup> Annexure JP-28.

<sup>593</sup> T327.39-40 (Deeming XXN); Exhibit R47 CBC 932.



## 22. April 2023

- 22.1. On 4 April 2023, Mrs Deeming told Annika Smethurst that she is giving an ‘exclusive’ to a journalist and will then open up to more journalists ‘on the record’ ..<sup>594</sup>
- 22.2. On 14 April 2023, Ms Credlin sent Mrs Deeming questions for their interview and asked her not to forward them to anyone as they would be criticised for helping her. Mrs Deeming said she would not even send them to ‘Kim’,<sup>595</sup> which the Court can infer is Mr Wells.
- 22.3. On 17 April 2023, tweeting a promotional video for an interview she conducted with Ms Credlin on 18 April, including saying ‘Speaking for myself’ and using the hashtag #LetWomenSpeak..<sup>596</sup> On 18 April 2023, Mrs Deeming appeared in an interview with Ms Credlin that was broadcast on *Sky News*..<sup>597</sup>
- 22.4. On 21 April 2023, Mrs Deeming purported to send a ‘draft letter to leadership’ to Ms Credlin, but Ms Credlin asked her to re-send it on 21 April, with Mr Wells attached to the email..<sup>598</sup> At 5:10pm, 12 minutes after Ms Credlin’s email, Mrs Deeming texted Ms Credlin, ‘Justin car can chat re Kim’s letter’, to which Ms Credlin responded, ‘All good, found it off my phone (laptop issue) and sent back my edits to you now’ ..<sup>599</sup>
- 22.5. On 26 April 2023, Mrs Deeming sent an email to Mr Wells in which she indicated she may need to commence defamation proceedings. Mrs Deeming forwarded that email to Ms Credlin..<sup>600</sup> Ms Credlin responded by asking if Mr Wells had ‘sent his letter’ ..<sup>601</sup>

## 23. May 2023

- 23.1. On 1 May 2023, Mrs Deeming offered Shannon Deery ‘an off the record heads up’ ..<sup>602</sup>
- 23.2. On 2 May 2023, Mrs Deeming texted Ms Credlin, ‘Kim doesn’t know how you got Renee’s email just FYI’. Ms Credlin responded, ‘He might. He kept asking me if I had it. I didn’t confirm any source. Never have. Only ever ruled sources out eg Heath as I did tonight’ ..<sup>603</sup>

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<sup>594</sup> Exhibit R138, CBC Tab 153, page 693.

<sup>595</sup> Exhibit R176, CBC Tab 235, page 1489.

<sup>596</sup> Exhibit R251, CBC Tab 512.

<sup>597</sup> Exhibit R252, CBC Tab 513.

<sup>598</sup> Exhibit R253, CBC Tab 515.

<sup>599</sup> Exhibit R176, CBC Tab 235, page 1491-1492.

<sup>600</sup> Exhibit R54, CBC Tab 522.

<sup>601</sup> Exhibit R54, CBC 522.

<sup>602</sup> Exhibit R231, CBC Tab 439, page 2275.

<sup>603</sup> Exhibit R176, CBC Tab 235, page 1492.

## 24. 4 May 2023

- 24.1. At 6:45am on 4 May 2023 Mrs Deeming sent an email to the Leadership Team in which she indicated unless the matter was resolved, she would instruct her lawyers to commence legal proceedings.<sup>604</sup> During cross-examination she described that as a 'big mistake on my behalf'.<sup>605</sup>
- 24.2. Mrs Deeming forwarded her 4 May 2023 email to Ms Credlin and Ms Baxendale.<sup>606</sup> She texted Ms Credlin at 9:02am, 'I thought about what you said & so I put it in writing', she asked for Ms Credlin's help with a statement and a public plan 'if they refuse to do the right thing'.<sup>607</sup>
- 24.3. At 11:10am, Shannon Deery asked Mrs Deeming if she was 'going the defamation path? It's been suggested to me something could be happening today'. Mrs Deeming responded off the record, 'I've told them I'm challenging the suspension because they won't do what they promised which was a statement up exonerate me from all the charges', 'Unless of course they do it by 2pm', 'And then I'll happily sit on the crossbench as agreed'.<sup>608</sup>
- 24.4. Sumeyya Ilanbey asked Mrs Deeming for a copy of her letter to Mr Pesutto, to which Mrs Deeming responded that she did not release it,<sup>609</sup> despite the emails to Ms Credlin and Ms Baxendale being sent from her parliamentary email address. Mrs Deeming ended up sending her email to Ms Ilanbey 'From another source'.<sup>610</sup>
- 24.5. After 2pm, Mrs Deeming texted Simon Love, 'Off record he's refused to negotiate', and authorised Mr Love to report this on *Sky News* 'but not from me'.<sup>611</sup>
- 24.6. At 2:32pm, Ms Credlin sent Mrs Deeming a revised draft of the email to go to her Parliamentary colleagues.<sup>612</sup>
- 24.7. At 3:28pm, Mrs Deeming sent an email to her Parliamentary colleagues.<sup>613</sup>
- 24.8. That day, Shannon Deery asked if legal proceedings would follow, to which Mrs Deeming responded at 3:51pm 'Off record you betchya'.<sup>614</sup> At 11:21pm, Mrs Deeming texted Mr Deery,

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<sup>604</sup> Exhibit R55, CBC Tab 511.

<sup>605</sup> T343.5-8 (Deeming XXN).

<sup>606</sup> Exhibit R269, CBC Tab 552, 553.

<sup>607</sup> Exhibit R176, CBC Tab 235, page 1493-1494.

<sup>608</sup> Exhibit R231, CBC Tab 439.

<sup>609</sup> Exhibit R233, CBC Tab 446, page 2314.

<sup>610</sup> Exhibit R233, CBC Tab 446, page 2315.

<sup>611</sup> Exhibit R220, CBC Tab 358, page 1926.

<sup>612</sup> Exhibit R56, CBC Tab 557.

<sup>613</sup> Exhibit R57, CBC Tab 558.

<sup>614</sup> Exhibit R231, CBC Tab 439, page 2278.

‘Unfortunately for John he has deeply & unashamedly angered at least 4 women to the point of no return. All off record of course’ and ‘3 of us have gotten legal advice’.<sup>615</sup>

24.9. On 4 May, Mr Pesutto gave a press conference in which he said, among other things, ‘Nothing in the dossier ever accused Moira Deeming of being a Nazi or herself having Nazi sympathies.’<sup>616</sup>

## 25. 5 May 2023

25.1. On 5 May 2023 Mrs Deeming sent several text messages giving off the record information to Peta Credlin<sup>617</sup> and Shannon Deery.<sup>618</sup>

## 26. 6 May 2023

26.1. On 6 May 2023, Mrs Deeming had a long text exchange with Chip Le Grand in which she gave him information.<sup>619</sup>

26.2. On 6 May 2023 Mrs Deeming posted on X that she had never once considered suing the Liberal Party, and reports to the contrary were false.<sup>620</sup> Text messages indicate she had previously drafted this message with the help of Ms Credlin.<sup>621</sup>

26.3. On 6 May 2023 Mrs Deeming received a motion from five members of the Party moving to expel her from the Party for bringing it into disrepute.<sup>622</sup>

26.4. Mrs Deeming forwarded a copy of the motion to at least Richard Willingham of the ABC.<sup>623</sup>

## 27. 11 May 2023

27.1. On 11 May 2023, the day before the vote, Mrs Deeming sent her first concerns notice to Mr Pesutto,<sup>624</sup> and also sent it to Ms Credlin and Rachel Baxendale of *The Australian*.<sup>625</sup> Mrs Deeming sending her first concerns notice to Rachel Baxendale resulted in an ‘exclusive’ article published by *The Australian* the next day entitled ‘Moira Deeming serves John Pesutto with defamation concerns notice’, which quoted from the first concerns notice.<sup>626</sup>

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<sup>615</sup> Exhibit R231, CBC Tab 439, page 2280.

<sup>616</sup> As reported in Exhibit R273, CBC Tab 560.

<sup>617</sup> Exhibit R176, CBC Tab 235, page 1496-1497.

<sup>618</sup> Exhibit R231, CBC Tab 439, page 2281-2282.

<sup>619</sup> Exhibit R278, CBC Tab 568, page 2727-2728

<sup>620</sup> Exhibit R59, CBC Tab 571.

<sup>621</sup> Exhibit R176, CBC Tab 235, page 1498.

<sup>622</sup> Exhibit R60, CBC Tab 579.

<sup>623</sup> Exhibit R61, CBC Tab 581; T349.14 (Deeming XXN).

<sup>624</sup> Statement of Agreed Facts, [63] CBD Tab 2, pages 11-12.

<sup>625</sup> Exhibit R49, CBC Tab 589.

<sup>626</sup> Exhibit R51, CBC Tab 602.

## 28. 12 May 2023

- 28.1. On 12 May 2023, Mrs Deeming was expelled from the Party.<sup>627</sup> The minutes of the 21 and 27 March meetings were also adopted at this meeting.<sup>628</sup>
- 28.2. On this date Mrs Deeming also sent her first concerns notice to Shannon Deery<sup>629</sup> and Sumeyya Ilanbey,<sup>630</sup> on the proviso that they did not disclose that she sent it to them. She also gave off the record information to Shannon Deery,<sup>631</sup> Chip Le Grand,<sup>632</sup> Simon Love,<sup>633</sup> Richard Willingham<sup>634</sup> and Sumeyya Ilanbey.<sup>635</sup>

## 29. After 12 May 2023

- 29.1. On 29 May 2023, Mrs Deeming proposed sending Ms Credlin her draft second concerns notice to show Ms Credlin what evidence Mrs Deeming had.<sup>636</sup>
- 29.2. On 31 May 2023, Mrs Deeming sent Mr Pesutto a second concerns notice in relation to the 3AW and the Media Release.<sup>637</sup> Again, Mrs Deeming also sent this to Rachel Baxendale, resulting in an 'exclusive' article published by *The Australian* that same day, entitled 'Moir Deeming: Expelled MP issues second defamation notice against embattled Liberal leader John Pesutto',<sup>638</sup> which quoted from the second concerns notice. Mrs Deeming also told Shannon Deery<sup>639</sup> and Richard Willingham<sup>640</sup> that she had sent this concerns notice. She suggested to Mr Willingham that one of Mr Pesutto's staff sent the concerns notice to *The Australian*, when it was her who did so. She suggested the same to Sumeyya Ilanbey before giving her a copy via 'Private email' saying 'No source x'.<sup>641</sup> She also said she would send it to Mr Deery's 'Private email' and said 'No source'.<sup>642</sup>
- 29.3. On 8 June 2023, Mr Pesutto responded to Mrs Deeming's first concerns notice.<sup>643</sup> That day Mrs Deeming also sent Shannon Deery an update on the proceeding via email.<sup>644</sup>

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<sup>627</sup> Exhibit R284, CBC Tab 595.  
<sup>628</sup> Exhibit R285, CBC Tab 596; Exhibit R64, CBC Tab 597.  
<sup>629</sup> Exhibit R231, CBC Tab 439, page 2288-2289.  
<sup>630</sup> Exhibit R219, CBC Tab 357, page 1916; CBC Tab 598.  
<sup>631</sup> Exhibit R231, CBC Tab 439, page 2290-2291.  
<sup>632</sup> Exhibit R283, CBC Tab 590, page 2809.  
<sup>633</sup> Exhibit R220, CBC Tab 358, page 1931.  
<sup>634</sup> Exhibit R177, CBC Tab 236, page 1511.  
<sup>635</sup> Exhibit R219, CBC Tab 357, page 1918.  
<sup>636</sup> Exhibit R176, CBC Tab 235, page 1503.  
<sup>637</sup> Statement of Agreed Facts, [64]: CBD Tab 2 page 12.  
<sup>638</sup> Exhibit R286, CBC Tab 611.  
<sup>639</sup> Exhibit R231, CBC Tab 439, page 2292.  
<sup>640</sup> Exhibit R177, CBC Tab 236, page 1512.  
<sup>641</sup> Exhibit R19, CBC Tab 357, page 1919.  
<sup>642</sup> Exhibit R231, CBC Tab 439, page 2293.  
<sup>643</sup> Statement of Agreed Facts, [65]: CBD Tab 2 page 12.  
<sup>644</sup> Exhibit R287, CBC Tab 613.

- 29.4. On 9 June 2023, Mrs Deeming sent the second concerns notice, with markups, to Rachel Baxendale.<sup>645</sup>
- 29.5. On 16 June 2023, Mrs Deeming referred to the Rally in a tweet as ‘legal & peaceful’.<sup>646</sup> She also sent a quote to the same effect to Rachel Baxendale.<sup>647</sup>
- 29.6. On 26 June 2023, Mr Pesutto responded to Mrs Deeming’s second concerns notice.<sup>648</sup>
- 29.7. On 10 July 2023, Mrs Deeming tweeted, ‘I believe that everyone single woman who has been harmed by the defamatory narratives around the Let Women Speak rally in Melbourne deserves to have their name & reputation restored’ accompanied by a photo of Mrs Deeming and Mrs Keen at the Rally.<sup>649</sup>
- 29.8. On 14 July 2023, Mrs Deeming sent Mr Pesutto a third concerns notice in relation to the Press Conference.<sup>650</sup>
- 29.9. On 8 August 2023, Mr Pesutto responded to Mrs Deeming’s third concerns notice.<sup>651</sup>
- 29.10. On 27 September 2023, Mrs Deeming tweeted, among other things, that she still had not received an apology or retraction from the people who authored and signed the ‘expulsion for Nazi associations’ document.<sup>652</sup>
- 29.11. On 28 September 2023, in response to a tweet by Ms Jones, Mrs Deeming commented, among other things, ‘I’ll never regret holding firm & refusing to smear innocent women as Nazi sympathisers’.<sup>653</sup>
- 29.12. On 29 October 2023, Mrs Deeming tweeted, among other things, ‘I was smeared as a Nazi associate & expelled from my MP team because I refused denounce 3 other innocent women who campaigned with me for sex based rights & child safeguards-as Nazi’s’.<sup>654</sup>
- 29.13. Mrs Deeming was interviewed by UK Commentator Andrew Doyle on ‘Free Speech Nation’, published on X on 30 October 2023.<sup>655</sup> In that interview, Mrs Deeming falsely asserted that Mr Pesutto called her a Nazi, saying the following:

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<sup>645</sup> Exhibit R288, CBC Tab 615.

<sup>646</sup> Exhibit R291, CBC Tab 618.

<sup>647</sup> Exhibit R290, CBC Tab 617, page 2980.

<sup>648</sup> Statement of Agreed Facts, [66]: CBD Tab 2 page 12.

<sup>649</sup> Exhibit R295, CBC Tab 629.

<sup>650</sup> Statement of Agreed Facts, [67]: CBD Tab 2 page 12.

<sup>651</sup> Statement of Agreed Facts, [86]: CBD Tab 2 page 12.

<sup>652</sup> Exhibit R529, CBC Tab 934.

<sup>653</sup> Exhibit R530, CBC Tab 935.

<sup>654</sup> Exhibit R532, CBC Tab 937.

<sup>655</sup> Exhibit R533, CBC Tab 938.

'I thought they were actually aligning me with the actual Nazis, because there were some actual Nazis that turned up on the steps pretty far away from us. And um, but I eventually realised though the course of the conversation that they were accusing Kellie-Jay Keen and a Jewish woman, and another Liberal Party member of being Nazis. And the moment that I realised that that was what they were talking about, was when they said, you know, 'You went out drinking champagne with Nazis!'

...

So this wasn't just some random person on the street calling me a Nazi, it wasn't some YouTuber, it wasn't even a journalist, you know 'cause our media companies have endless pockets and it's hard to sue them, this was four leaders of one half of the political power in Australia.'

29.14. Mrs Deeming was also interviewed on *YouTube* channel 'The Mess We're In', which was posted on *YouTube* on 3 November 2023.<sup>656</sup> In this interview, Mrs Deeming said 'I literally got defamed as a Nazi associate everywhere, all around the world'.

29.15. On 16 November 2023, Mrs Deeming reposted a post, 'Bronwyn Bishop "sorry" after ABC Nazi slur. #MediaBites #MediaWatch', and in doing so said, among other things, 'I'll do \*whatever\* it takes to remove the same disgusting smear from my name'.<sup>657</sup>

29.16. On 16 November 2023, in response to a tweet suggesting that women 'can speak up and be called hypocrites or prudes or deranged radfems who are insincere about gender non conformity', Mrs Deeming commented, 'Or Nazis'.<sup>658</sup>

29.17. On 16 November 2023, Mrs Deeming tagged Mrs Keen, Ms Jones and Ms Deves in a tweet.<sup>659</sup>

29.18. On 20 November 2023, Mrs Deeming posted a statement on Facebook<sup>660</sup> and X,<sup>661</sup> which included the following assertions:

- (a) 'Both during and after our rally, I and the organisers publicly condemned the Neo-Nazis, Nazism, antisemitism and bigotry of any kind';
- (b) 'The next day, I was called into a meeting and informed by the Liberal Party leadership that if I refused to denounce the 'Let Women Speak' rally and it's organisers as being extremists and Nazi's/Nazi associates, they'd move a motion to expel me from the parliamentary team. Or, I was told, I could 'just resign and make it easier on everyone'. I declined';

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<sup>656</sup> Exhibit R534, CBC Tab 939.

<sup>657</sup> Exhibit R535, CBC Tab 940.

<sup>658</sup> Exhibit R536, CBC Tab 941.

<sup>659</sup> Exhibit R301, CBC Tab 650.

<sup>660</sup> Exhibit R302, CBC Tab 651.

<sup>661</sup> Exhibit R303, CBC Tab 652.

- (c) 'I was then falsely and publicly accused by the Victorian Liberal Leader, Mr John Pesutto, of being a knowing associate of Neo-Nazi sympathisers and extremists, and therefore deserving of expulsion from the Parliamentary Liberal Party. Mr Pesutto has denied making these accusations against me. He claims instead that he sought my expulsion because I'm guilty by association with persons, who were themselves guilty by association with neo-Nazism, The guilt by association fallacy is well known. But Mr Pesutto's version of guilt by association twice or thrice removed for the most extreme and serious punishment of expulsion, appears to be an excuse rather than a reason. Even Mr Pesutto's very own 'evidence dossier', which he distributed to my colleagues, the public and the media, has since been shown to be false'; and
- (d) 'All I have ever wanted from Mr Pesutto was a full and official exoneration so that my children don't have to live under this "Nazi bigot" slur, restoration of my financial position, and my rightful return to the Party Room as an elected Liberal MP'.

29.19. Mrs Deeming sent this statement to Rachel Baxendale<sup>662</sup> and Shannon Deery.<sup>663</sup>

29.20. Having seen this statement, Mr Pesutto responded by posting his own statement.<sup>664</sup> In this statement, Mr Pesutto acknowledged that he does not believe Mrs Deeming to be a neo-Nazi or white supremacist. He said among other things:

- (a) Mrs Deeming's suspension and subsequent expulsion were never about her views on women's issues.
- (b) I have never called Mrs Deeming a neo-Nazi or sympathiser.
- (c) The issues in this matter have never concerned freedom of speech.
- (d) The issue has always been whether Mrs Deeming called out or distanced herself from neo-Nazi protestors and references when asked to do so by senior Liberals.

29.21. Mr Pesutto denies that any of the above matters are false.<sup>665</sup> With respect to the matter at (d) above, Mr Pesutto says it is true that the condemnations and concessions Mrs Deeming offered on 18 March 2023 in response to Mr Southwick's call, and on 19 March 2023 at the Leadership Team meeting, were inadequate. In response to Mr Southwick's requests, Mrs Deeming only posted a tweet condemning Victoria Police,<sup>666</sup> and then featured in the Video.<sup>667</sup> She made

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<sup>662</sup> Exhibit R305, CBC Tab 654.

<sup>663</sup> Exhibit R306, CBC Tab 655.

<sup>664</sup> Exhibit R304, CBC Tab 653.

<sup>665</sup> CBB Tab 31, page 388 [73] (Second affidavit of John Pesutto dated 22 July 2024).

<sup>666</sup> Exhibit A142, CBC Tab 275.

<sup>667</sup> Exhibit R37, CBC Tab 893.

further condemnations on 27 March 2023 before the Party room meeting that day, but had since walked back that condemnation, including in a tweet later that same day.<sup>668</sup>

- 29.22. On 21 November 2023, Mrs Deeming texted Ms Credlin, among other things, ‘Please send it back via Tony that my offer is my offer’.<sup>669</sup> The implication of this exchange, is that Tony Abbott was communicating with Mrs Deeming using Ms Credlin as an intermediary.
- 29.23. On 23 November 2023, Mrs Deeming tweeted about, among other things, ‘injustice done to me by that Leadership Team’, and later commenting on that tweet, among other things, tagging Ms Jones and Mrs Keen and saying ‘My children will not be forced to live under this outrageous Nazi smear’;<sup>670</sup>
- 29.24. On 4 December 2023, Mrs Deeming sent Mr Pesutto a fourth concerns notice in relation to the 3AW Interview.<sup>671</sup>
- 29.25. On 5 December 2023, Mrs Deeming filed her Originating Application and Statement of Claim in this proceeding.<sup>672</sup>
- 29.26. On 6 December 2023, in reply to a tweet by Ms Wong seeking funding to ‘Help [Mrs Deeming] clear her name’, which stated among other things, ‘I know the horrendous toll Pesutto’s Nazi slurs have taken on Moira and her family’, Mrs Deeming posted, ‘Thank you x’.<sup>673</sup>
- 29.27. On 29 January 2024, Mr Pesutto filed his Defence in this proceeding.<sup>674</sup>
- 29.28. On 2 February 2024, Mr Pesutto gave an interview with Tom Elliot on *3AW Melbourne*. That day, Mrs Deeming also provided information about the proceeding to Richard Willingham<sup>675</sup> and Benita Kolovos.<sup>676</sup>
- 29.29. On 12 February 2024, Mrs Deeming filed her Reply in this proceeding.<sup>677</sup>
- 29.30. On 8 March 2024, Mrs Deeming texted Chip Le Gand off the record, among other things:<sup>678</sup>

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<sup>668</sup> Exhibit R48, CBC Tab 484.

<sup>669</sup> Exhibit R307, CBC Tab 656.<sup>670</sup> Exhibit R537, CBC Tab 943.

<sup>670</sup> Exhibit R537, CBC Tab 943.

<sup>671</sup> Statement of Agreed Facts, [67]: CBD Tab 2 page 12.

<sup>672</sup> Originating Application: CBA Tab 1; SOC: CBA Tab2.

<sup>673</sup> Exhibit R539, CBC Tab 945.

<sup>674</sup> Defence: CBA Tab 3.

<sup>675</sup> Exhibit R310, CBC Tab 675, page 3190-3194.

<sup>676</sup> Exhibit R309, CBC Tab 674, page 3187-3188,

<sup>677</sup> Reply: CBA Tab 4.

<sup>678</sup> Exhibit R311, CBC Tab 682, page 3229-3232.



- (a) 'I only ever wanted expulsion undone, name cleared of extremist, Nazi, bigot accusations';
- (b) 'You could just flat out ask him whether he still thinks I have unacceptable associations with Nazism & vile bigotry (from his original press release)';
- (c) a screenshot with the following text circled in red and highlighted in yellow, 'now independent MP Moira Deeming, who alleges Pesutto painted her as a Nazi sympathiser after she attended a rally where black-clad neo-Nazis also turned up'.

29.31. On 18 March 2024, Mrs Deeming posted three tweets about three defamation actions being commenced against Mr Pesutto.<sup>679</sup>

29.32. On 19 March 2024, Mrs Deeming posted a tweet saying 'It's been a year. We did nothing wrong. #LetWomenSpeak' along with a photo of Mrs Deeming, Mrs Keen, Ms Jones and Ms Deves.<sup>680</sup> Mrs Keen reposted that tweet, on which Mrs Deeming commented 'Still proud to be associated with you xx'.<sup>681</sup> Mrs Keen also commented on the tweet, to which Mrs Deeming replied, including saying 'Still one of the best nights of my life'.<sup>682</sup>

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<sup>679</sup> Exhibit, R313, CBC Tab 684; Exhibit R314, CBC Tab 685; Exhibit R315, CBC Tab 686.  
<sup>680</sup> Exhibit R540, CBC Tab 946.  
<sup>681</sup> Exhibit R62, CBC Tab 947.  
<sup>682</sup> Exhibit R541, CBC Tab 948.