

## NOTICE OF FILING

### Details of Filing

Document Lodged: Affidavit - Form 59 - Rule 29.02(1)  
Court of Filing: FEDERAL COURT OF AUSTRALIA (FCA)  
Date of Lodgment: 22/07/2024 3:31:14 PM AEST  
Date Accepted for Filing: 22/07/2024 3:31:23 PM AEST  
File Number: VID1023/2023  
File Title: MOIRA DEEMING v JOHN PESUTTO  
Registry: VICTORIA REGISTRY - FEDERAL COURT OF AUSTRALIA



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

Registrar

### Important Information

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

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

Form 59  
Rule 29.02(1)

## Affidavit of Joseph John McCracken

VID 1023 of 2023

Federal Court of Australia  
District Registry: Victoria  
Division: General

### MOIRA DEEMING

Applicant

### JOHN PESUTTO

Respondent

Affidavit of: **Joseph John McCracken**

Address: [REDACTED]

Occupation: Member of Parliament

Date: 18 July 2024

I, Joseph John McCracken, of [REDACTED] say on oath:

1. I swore my first affidavit on 27 May 2024 (**First Affidavit**).
2. Since then, I have read the following affidavits served on behalf of Mr Pesutto:
  - (a) The affidavit of John Pesutto affirmed on 27 May 2024;
  - (b) The affidavit of David Southwick affirmed on 27 May 2024; and
  - (c) The affidavit of Georgie Crozier sworn on 27 May 2024.

### Introduction

3. I have been a member of the Liberal Party when I joined as a teenager in 2007. Over that time, I have served in numerous voluntary roles across the party, mixing with many members of the Liberal Party in Victoria. Since being elected as a Liberal MP in November

Filed on behalf of (name & role of party)	Moira Deeming, Applicant	
Prepared by (name of person/lawyer)	Patrick George, Solicitor	
Law firm (if applicable)	Giles George	
Tel	1300 204 602	Fax
Email	patrick.george@gilesgeorge.com.au   jeremy.marel@gilesgeorge.com.au   petar.strkali@gilesgeorge.com.au	
Address for service (include state and postcode)	Level 7, 135 King Street Sydney NSW 2000	

[Version 3 form approved 02/05/2019]

2022, representing Western Victoria Region, I have mixed with my colleagues within the Victorian Parliamentary Liberal Party.

4. As a new MP, I tried to get the 'lay of the land', particularly in the Upper House. Accordingly, in addition to my colleagues within the Victorian Parliamentary Liberal Party, I also mixed with a number of Government and Crossbench MP's, some whom I had known before my election through my work as a Councillor.
5. I also work hard to talk to many people across the community in Western Victoria as part of my work, which includes small business people, local government representatives, peak bodies and constituents, amongst others.

#### **Response to Mr Pesutto's affidavit**

6. I have read that Mr Pesutto states at paragraph [21] of his affidavit that he recalls that when Moira was endorsed as the Liberal Party candidate for the Western Metropolitan Region 'there was some controversy surrounding her endorsement'. I recall Moira being endorsed as a candidate for Western Metropolitan Region. I don't recall it being controversial, and I expect I would have known at the time and would now remember if it was controversial. I recall her endorsement being reported on by the media, but in my experience when a candidate is endorsed for election it is usually reported in the media. I do not recall whether the reporting was positive or negative. I do not recall the reporting being widespread. I would expect to recall if there had been reporting about Moira's endorsement which was negative or widespread or which I regarded as politically significant.
7. In relation to paragraphs [24] and [25] of Mr Pesutto's affidavit, I do not recall any 'media controversy surrounding [Moira's] views in relation to transgender and sex-based rights' in December 2022, nor do I recall any 'concerns' being raised with me about her views. I was aware that Moira had strong views on certain political matters, but I didn't view this as particularly 'controversial', given there is a wide breadth of views in the Liberal Party, let alone the broader community. I would expect to recall if there had been a 'media controversy' surrounding Moira's views or if 'concerns' had been raised with me about her views.
8. I have read paragraphs [29] and [30] of Mr Pesutto's affidavit about Moira's maiden speech. I don't recall the specific content of Moira's maiden speech, but I was in the Chamber at the time to hear it. An MP's maiden speech is an extremely significant occasion. Quite often the MP's friends, family and loved ones are invited along. In my experience, there is often media reporting about the maiden speeches of new MPs. There was widespread reporting on my own maiden speech, for example, along with others such as Trung Luu MP and Renee Heath MP. I recall there being some media reporting about



Room, given that she was elected unanimously to the role of Opposition Whip in the Legislative Council and that I had not heard any concerns expressed about her.

14. In relation to paragraph [45] of Mr Pesutto's affidavit, prior to 19 March 2023 I did not consider Moira to have a bad reputation and within the circles in which I mixed she did not have 'a bad reputation' or a reputation for having or 'giving succour to hateful and/or extreme social or political views'. My observation and perception, having interacted and mixed with members of the public in Western Victoria Region, is that Moira did not have a negative reputation prior to 19 March 2023 within Western Victoria Region and that they were largely supportive of her.
15. In relation to paragraph [144] of Mr Pesutto's affidavit, I do not recall Moira 'flipping through a copy of the Expulsion Motion and Dossier, explaining away the contents as she did so' or that 'she described the Nazi Barbie doll image as 'hilarious''.
16. In relation to paragraph [161] of Mr Pesutto's affidavit, my understanding, based on my experience in politics, is that a 'joint statement' is where a statement is prepared by two or more people who contribute to the contents of statement, and who release it 'jointly' in both their names.

#### **Response to Mr Southwick's affidavit**

17. In relation to paragraph [62] of Mr Southwick's affidavit, I repeat paragraph [16] above.

#### **Response to Ms Crozier's affidavit**

18. In relation to paragraph [18] of Ms Crozier's affidavit, I don't dispute the fact that there are established conventions and protocols, should an MP be absent from the Party Room for any particular reason. I was elected at the same time Moira was elected, and I don't recall any Liberal Party induction. New MPs were thrown into the deep end required to figure it out as they went. We did have an induction process run by the Parliament, but Party Room protocols were not covered. I was lucky that I had colleagues from my electorate, Bev McArthur MP and Richard Riordan MP, both of whom I had known before my election, whom I could seek guidance from.
19. In relation to paragraph [49] of Ms Crozier's affidavit, I do not recall one way or the other whether Moira 'flippantly flicked through the pages of the Dossier, scoffing and rubbishing the material about Ms Keen and Ms Jones'.

~~Affirmed~~

Sworn by the deponent  
at Ballarat  
in Victoria  
on 18 July 2024  
Before me:

)  
)  
)  
)  
)

McCracken  
Signature of deponent

Peter W Rogers JP  
Signature of witness

Name and qualification of witness

PETER ROGERS JP  
CONVEYANCY JUSTICE OFFICE  
[REDACTED]  
JUSTICE OF THE PEACE FOR VICTORIA  
[REDACTED]