

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 2:47:26 PM AEST
Date Accepted for Filing: 22/07/2024 2:47:36 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

No. VID 1023 of 2023

Federal Court of Australia
District Registry: Melbourne
Division: General Division

MOIRA DEEMING

Applicant

JOHN PESUTTO

Respondent

Affidavit of: **Matt Bach**

Address: [Redacted]

Occupation: Teacher

Date: 16 July 2024

I, **Matt Bach**, teacher, of [Redacted], solemnly and sincerely affirm:

1. I have previously affirmed an affidavit in this proceeding on 26 May 2024 (**my First Affidavit**). I adopt the terms defined in my First Affidavit.
2. I understand that between 27 May 2024 and 29 May 2024 a number of affidavits were filed on behalf of the Applicant in this proceeding. I have not received copies, nor read any of those affidavits in full, but have been shown parts of the affidavit sworn by Moira on 27 May 2024 (**Deeming Affidavit**) that relate to me. This affidavit only responds to the parts of the Deeming Affidavit that directly refer or relate to me, where I have a recollection of those events or have something to add. Any failure to address any

Filed on behalf of (name & role of party) John Pesutto, Respondent
 Prepared by (name of person/lawyer) Peter Bartlett
 Law firm (if applicable) MinterEllison
 Tel (03) 8608 2677
 Email [Redacted]
Address for service MinterEllison, 447 Collins Street, Melbourne VIC 3000
 (include state and postcode)

Matt Bach *M.B.*

..... *DF* Witness

assertion does not mean I necessarily agree with that assertion, particularly where I have previously given evidence on that matter.

Meeting with Mrs Deeming on Sunday, 19 March 2023

- 3. At paragraphs [60] and [63] of the Deeming Affidavit, Moira alleges that John described sex-based rights as a 'fringe issue'. I do not recall John characterising it in that way. While I do not recall every word spoken during the meeting, I do not recall that phrase being used and, from my experience with and knowledge of John and his views, I doubt that John would have used that phrase because to my knowledge John didn't think, and doesn't think, that issues like safe spaces for women are fringe issues.
- 4. Similarly, at paragraph [63] of the Deeming Affidavit, Moira alleges that the Leadership Team continued to attack her advocacy for sex-based rights and child safeguarding. I am not sure what Moira is referring to but, in my view, we certainly did not attack her or her views at any point during the meeting.
- 5. In my view, the Leadership Team had supported Moira in advocating for the issues she was passionate about, so long as she did it in a respectful and appropriate way. For example, I understood there had been an ongoing process, led by Georgie, to support and counsel Moira about respectful and appropriate engagement on those issues which were important to her, while also being a good team player.
- 6. From my perspective, the concern of the meeting was never about Moira personally, or her own views. As to the tone of the meeting, at [87] of the Deeming Affidavit, Moira also states she felt ambushed, attacked and bullied during the meeting. I considered that John, David, and Georgie were particularly soft and gentle with Moira. They dealt with her with 'kid gloves'. I spoke in a more direct and forthright tone with Moira than the others did, particularly towards the end of the meeting when it was becoming clear that Moira simply didn't understand the problem the Leadership Team had with her conduct. I refute in the strongest terms that we dealt with Moira inappropriately in any way during the meeting.
- 7. At paragraph [64] of the Deeming Affidavit, Moira says that someone told her that this was her third strike. I do not recall anyone using that language, but there may have been talk during the meeting about Moira's previous conduct in the context of the counselling she had received about respectful engagement with issues.
- 8. It was in that context that I recall Georgie told Moira that she was disappointed because Georgie had tried hard to support Moira to avoid overstepping the mark. Moira's history

Matt Bach *M.B.*

..... *DF* Witness

was certainly relevant in my assessment of her associations with Ms Keen and Ms Jones and why we were taking the issue so seriously. It appeared to me that Moira was unable or unwilling to learn from her mistakes.

9. At paragraph [67] of the Deeming Affidavit, Moira alleged that we 'interrogated' her about whether she knew any Nazis. This is incorrect. First, as I've outlined at paragraph 6 above, we dealt with Moira very softly and gently during the meeting; we did not 'interrogate' her. Second, from my perspective, I never had any concerns that Moira had links to the neo-Nazis who turned up at the Rally; I was however concerned that she didn't leave when the neo-Nazis turned up and that she shared a stage with Ms Keen and Ms Jones who had published various offensive things online.
10. At paragraph [69] of the Deeming Affidavit, Moira refers to John using the phrase "known supporter of Nazism". John did not use that phrase - he was much more careful and nuanced in his language throughout the meeting. In that paragraph Moira also says that she told us that she had never heard or seen of any such allegations about Ms Jones or Ms Keen. I do recall her saying that. In response, I said something to the effect of, I just don't believe you - you walked them through Parliament House and you organised an event with them. I was sceptical and surprised by Moira's assertion that she had not seen the material we showed her - if an MP was going to be appearing at a public event organised and spearheaded by particular people, as well as in social media live-streams by those same people, I would expect that MP to have conducted some research on those people, and this material was apparently easy to find online.
11. At paragraph [70] of the Deeming Affidavit, Moira says that she "started to become suspicious as to the accuracy of the claims" that were being read aloud to her. I don't understand how Moira could have been suspicious about the accuracy of what was being put to her; they were things that Ms Keen and Ms Jones had demonstrably said or done. I do not recall Moira asking to see Rod's laptop or Rod turning his laptop away from Moira. I was sitting right next to Rod - I believe I would remember if he had done that.
12. My recollection is that Moira did not dispute the accuracy or veracity of what was being put to her. Instead, she was quibbling with the meaning or interpretation of what was being put to her. For example, we had what I considered to be a very frustrating discussion about the intended meaning of the Jones Tweet, which Moira said was being misinterpreted. I said to Moira that it didn't matter whether it was being misinterpreted; what mattered was that the Jones Tweet used the phrase "paedo filth", which was the same language used by the neo-Nazis on the day of the Rally when they

Matt Bach M.B.

DF Witness

unfurled their banner, which read "destroy paedo filth". A reasonable person viewing the Jones Tweet might think the two were linked. Moreover, people reading the Jones Tweet would be likely to assume that Ms Jones was suggesting transgender people, or other members of the LGBTIQ+ community, were paedophiles. Even if that was not what Ms Jones had intended to convey, I considered it was likely how many people would interpret the Jones Tweet. Those matters were of themselves offensive, but could also be used to link those offensive views with the Party due to Moira's involvement and association with Ms Jones at and after the Rally. I was concerned that distance be put between the Party, and offensive public comments such as the Jones Tweet.

13. At paragraph [72] of the Deeming Affidavit, Moira says we 'kept pressing' her to 'denounce Ms Keen as a Nazi'. No one ever said that Moira had to denounce Ms Keen as a Nazi. From my perspective, we wanted Moira to put some distance between the Party and Ms Keen, and in particular Ms Keen's social media posts that adopted Nazi imagery, and that is what I understood we 'kept pressing' her to do.
14. At paragraph [76] of the Deeming Affidavit, Moira makes a number of allegations about things I said during the meeting, including that I said, in an outraged tone, that Moira was "drinking champagne with Nazi bigots". I categorically deny that I called Ms Keen or Ms Jones 'Nazis' or 'Nazi bigots'.
15. I do recall Moira broadly saying the things she has outlined at paragraph [76] about Ms Deves, Ms Keen and Ms Jones. In particular, she kept emphasising that Ms Jones was "from the left". Moira seemed incapable of appreciating that it was what Ms Jones and Ms Keen said that mattered, not where they sat on the political spectrum, which was to me entirely irrelevant.
16. Paragraph [76] of the Deeming Affidavit also alleges that I kept saying that Ms Jones was a 'bigot' and that Moira asked me what I thought Ms Jones's views were. I do not believe that I called Ms Jones a bigot. It is true that Moira asked me what I thought Ms Jones's views were, however, the context of that exchange is that we had just spent considerable time speaking about the Jones tweet which I explain above at 12.
17. From my perspective, the Leadership Team did not care what Ms Jones's or Ms Keen's beliefs were; we just wanted Moira to put distance between the Liberal Party and the comments/posts published by Ms Keen and Ms Jones that contained extremely offensive material – which Moira refused to do. While I do recall that Moira offered to condemn Nazism and transphobia, as alleged in paragraph [79] of the Deeming

Matt Bach *M.B.*

..... *DF* Witness

Affidavit, Moira didn't seem to understand that our concern was also with particular posts by Ms Keen and Ms Jones, not only 'Nazism' and 'transphobia' at large.

18. At paragraph [79] of the Deeming Affidavit, Moira says that she said during the meeting that she had done nothing wrong and shouldn't be held responsible for other people's tweets "without irrefutable proof". I do not recall Moira saying that, and it does not accord with my recollection of what was discussed during the meeting. As I've described at other points in this affidavit, Moira did not dispute the accuracy or veracity of what was being put to her; she was quibbling with the meanings of the posts by Ms Keen and Ms Jones.
19. At paragraph [80] of the Deeming Affidavit, Moira says that John looked at me and asked me what I think, in response to which I said that Moira can't be rehabilitated. I do recall saying something to the effect that Moira cannot be rehabilitated but I do not recall whether it was in response to a question John asked me, or whether I said that unprompted. Again, context is important. This was said in the broader context of a discussion about the numerous times that Georgie has tried to counsel Moira in relation to issues that we knew were important to her while also expecting her to be a team player. It became clear to me that Moira was unwilling or incapable of acting as a team player.
20. At paragraph [83] of the Deeming Affidavit, Moira alleges that John said words to the effect that "Moira, since you refuse to condemn these women or this rally, we have decided to move a motion to expel you". John did not use those words or such stark language [REDACTED] I do recall at one stage John suggested an alternative option would be for Moira to resign.
21. Moira also alleges that she was not invited to bring a support person, representative, or other MP with her to the meeting. In my experience, it would be highly unusual for an MP to be expressly invited to bring such a person to a meeting with their own Leadership Team. However, speaking for myself, had Moira asked to bring, or even turned up with, a support person or another MP, I would have said of course she can do so. From my experience with and knowledge of the other members of the Leadership Team, they would have had the same response.

Party room meeting on 27 March 2023

22. At paragraph [180] of the Deeming Affidavit, Moira alleges that I suggested she was an extremist during my speech in favour of the motion proposed. I did not do that. In the

Matt Bach *M.B*

DF Witness

minutes of my comments, which I consider to be broadly accurate and accord with my recollection, I am recorded as saying:

I have found this so incredibly hard. I found last weekend that this is a necessary step. We cannot be wedded to extremists. I urge you to support the motion.

- 23. I said, and intended to convey that, that 'we', being the Liberal Party cannot afford to be linked, via Moira, to extremists.
- 24. At paragraph [187] of the Deeming Affidavit, Moira refers to the "Leadership Team" on several occasions. I was not involved at all in the discussions or negotiations with Kim Wells or Ryan Smith.

Affirmed by the deponent
 at Kefalonia in Greece
 on 16 July 2024
 Before me: Deanna Ficatas

)
)
)
)
)

M.B

Signature of deponent

Deanna C. Ficatas

Signature of witness

of 447 Collins Street, Melbourne, Victoria

An Australian Legal Practitioner within the meaning of the Legal Profession Uniform Law (Victoria)

This affidavit was affirmed and witnessed remotely using an electronic copy of the affidavit in accordance with the Oaths and Affirmations Act 2018 (Vic)

Matt Bach *M.B*

..... *DF* Witness