

## 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:	16/02/2023 2:22:56 PM AEDT
Date Accepted for Filing:	16/02/2023 2:23:02 PM AEDT
File Number:	VID44/2023
File Title:	SALLY RUGG v THE COMMONWEALTH OF AUSTRALIA & ANOR
Registry:	VICTORIA REGISTRY - FEDERAL COURT OF AUSTRALIA



A handwritten signature in blue ink, reading "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. VID44 of 2023

Federal Court of Australia  
District Registry: Victoria  
Division: Fair Work

### Sally Rugg

Applicant

**The Commonwealth of Australia** and another named in the schedule  
Respondents

Affidavit of: **Sally Margaret Rugg**

Address: [REDACTED]

Occupation: Chief of Staff

Date: 16 February 2023

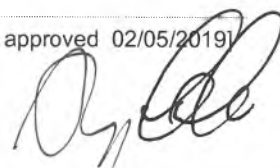
### Contents

Document number	Details	Paragraph	Page
1	Third affidavit of Sally Rugg in support of originating application affirmed 16 February 2023.	1–42	1-8
2	Annexure "SR-22", being a screenshot of text messages dated 23 December 2022	15	10
3	Annexure "SR-23", being a copy of email dated 10 January 2023	19	12

I, Sally Margaret Rugg, of [REDACTED] affirm:

- I am the Applicant in this proceeding.
- I make this affidavit in support of my application, including for urgent relief.

Filed on behalf of (name & role of party) Sally Rugg, Applicant  
 Prepared by (name of person/lawyer) Angus Mackenzie  
 Law firm (if applicable) Maurice Blackburn Lawyers  
 Tel 03 5018 4019 Fax -  
 Email AMackenzie@mauriceblackburn.com.au; EmilyCreak@mauriceblackburn.com.au;  
JBornstein@mauriceblackburn.com.au  
**Address for service** Level 21, 380 La Trobe Street, Melbourne VIC 3000  
 (include state and postcode)



3. Unless stated otherwise, my statements in this affidavit are based on my own knowledge.

**Request of 4 January 2023**

4. I have read the affidavit of Dr Ryan affirmed on 2 February 2023.
5. In the afternoon on 4 January 2023, I received a call from an anonymous number. It was Dr Ryan. We then had a discussion to the following effect:
- (a) Dr Ryan said 'Hi it's Monique';
  - (b) I said 'Hi';
  - (c) Dr Ryan said 'how are you going?';
  - (d) I said 'fine';
  - (e) Dr Ryan said 'I was hoping you could let us know when you plan to come into the office to drop of your laptop and your swipe card and collect your things';
  - (f) I thought it was strange that Dr Ryan had phoned me to ask me that.
  - (g) I said 'I can organise a courier to drop back my laptop and swipe card';
  - (h) Dr Ryan said 'good, thanks' and then 'have you been checking your emails?';
  - (i) I said 'yes, I have my notifications on and I've been keeping an eye on what's coming through';
  - (j) Dr Ryan said 'can you please make sure you're forwarding me all important emails';
  - (k) I said 'yes, I have been doing that';
  - (l) Dr Ryan said 'it would be good if you could set up an auto-forward on your work email and an out of office response';
  - (m) I said 'yes, I'll do that' and 'do you have my email address';
  - (n) Dr Ryan said 'your work email address?';
  - (o) I said 'no, you have my personal email address. It's best to contact me there';
  - (p) Dr Ryan said 'okay, no worries';
  - (q) we said goodbye to one another, and I hung up.
6. To that time, I had not put on an out of office response for my emails because I did not want to begin announcing to everyone who emailed me that I wasn't working in Dr Ryan's office. I was on annual leave and I didn't want to deal with work things over the Christmas break, or have to manage the reactions of journalists, political staff and others who might receive an out of office response about my departure from Dr Ryan's office



7. In addition, in our discussion on 21 December 2022, Dr Ryan had mentioned that she wanted me to sign a non-disparagement agreement.
8. I did not want to attend the office because I thought, if I did, Dr Ryan might pressure me to sign such an agreement.

#### **Community engagement work**

9. In paragraphs [55] to [56] of her affidavit, Dr Ryan says that the community engagement role was important, but that, she thought, I didn't like doing it or didn't want to do it.
10. I agree with Dr Ryan that the community engagement work was very important. That is why I engaged Climate 200 to prepare a community engagement strategy: I did that because the community engagement work was too important for it to be inadequately resourced. I did not have the capacity to give the community engagement work the time it needed, and attend to the other duties Dr Ryan asked of me. If we were going to do the community engagement work properly, we needed someone else to do it (or for Dr Ryan to accept that some other duties I was performing would not be performed by me).
11. That said, I disagree that community engagement work was part of my role as Chief of Staff. It was not mentioned in the position description that is **SR-3** to my first affidavit and if Dr Ryan did not tell me that she considered community engagement to be the most important part of my role until 12 December 2022, in the performance review meeting I describe in paragraph 64 of my first affidavit. I was surprised that Dr Ryan said that. It was not my understanding of the role to that point, or reflected in my position description. Dr Ryan did not suggest that I should cease any of my duties to take on the community engagement work, only that I should be doing that work on top of my existing duties.
12. I disagree that I did not have 'any interest in community engagement'. I have done plenty of community engagement work throughout my career. For a two-year period during the marriage equality campaign, I ran community organising teams in ten electorates. Also, whilst at GetUp, I worked on two federal elections, many by-elections and several state elections organising thousands of volunteers to do candidate forums, hand-out materials.
13. Outside of work, over many years I have also been working with the LGTBQIA+ community as a volunteer organising community engagement efforts, organising through Facebook, email lists, panels, information nights and rallies. I have also volunteered for fundraising drives. I have door-knocked supporting local volunteers activists in their communities in every state in the country.

A handwritten signature in black ink, appearing to be 'D. Ryan', located at the bottom right of the page.

14. It is wrong to say that community engagement work, or community organising, was 'not my thing'.

### **Engagement of acting Chief of Staff**

15. On 23 December 2023, Dr Ryan emailed me to ask me to leave the Slack workspace for Dr Ryan's office. After I received Dr Ryan's email, I tried to remove myself from the workspace, and found that I could not, so I logged myself out of Slack on my phone which was the most I could do to comply with her direction. I sent Dr Ryan a text confirming that that was what I had done. Now shown to me and marked **SR-22** is a screenshot I took of my text message to Dr Ryan.
16. On 4 January 2023, following the phone call I had with Dr Ryan and which I mention above, I opened my laptop to create an out of office response as Dr Ryan had asked me to do. When I did, I saw that my computer was still logged into the Slack workspaces for Dr Ryan's team on the laptop. I saw that I had a Slack message from Dr Ryan in which Dr Ryan informed her office staff and volunteers that Nina O'Connor had joined her office as Acting Chief of Staff. I did not take a screen shot of that message as I did not think it might have been important at that time, and I do not have access to that message now as I have since logged out of that Slack workspace.
17. Nina is a friend of mine, with whom I also worked to prepare the community engagement strategy I mention in my first affidavit.
18. In a text message to me, Nina said that she had been "seconded" to Dr Ryan's office from Climate 200. I understand "seconded" to mean that Climate 200 were paying her wages and directing her to work for Dr Ryan.
19. On 10 January 2023, I received an email from Dr Ryan in which she said, among other things, '*Nina O'Connor has taken a leave of absence from C200 and will join the team as Acting Chief of Staff from 1.2.23*'. Now shown to me and marked **SR-23** is a true copy of Dr Ryan's email to me.

### **Covid and 22 November 2022**

20. The first time I had COVID, I was really sick. I couldn't get out of bed for 12 days. I had terrible fatigue and pain all over my body. I also had neurological symptoms. For a couple of days, I couldn't read because it felt like I didn't recognise letters. I also couldn't understand anything verbal.
21. It was terrifying. It was a really difficult time.
22. The neurological symptoms and bodily pain stuck around to some degree for some time.



23. Around November 2022, whilst I was in Canberra, I was taking a RAT every day because I was staying with a family with a baby, and I did not want to catch covid in Parliament and bring it home to that family.
24. Shortly before the November 2022 sittings, I went to my GP and asked her what I should do if I got COVID again. We had a discussion to the following effect:
- (a) I said Parliament was swimming with COVID and I was anxious about getting it again;
  - (b) She said that I should make sure that if I contracted Covid, I should be at home with familiar things around me to minimise the impact of any neurological symptoms or any confusion;
  - (c) She also said that her clinic is close to my house, so help would be nearby if I needed it.
25. On 22 November 2022, I was at my desk in parliament house. I took a Rapid Antigen Test for COVID, as I did every day around that time.
26. My test came back faintly positive. I said to Dr Ryan and Ms Miller, who was also in the office, *'Oh my God. I've tested positive'*.
27. Dr Ryan then came over to my desk and looked at the test, and said *'Yep, that's positive'*.
28. I was really scared that I would have the same symptoms I had when I last had COVID 19. I packed up my things and went to the house where I stay when I'm in Canberra. The house I stay at in Canberra has other people living in it, including a baby. Once I got there, I sat in the back garden to try to figure out what I was going to do. Whilst I was doing that, I saw that I could get on a flight in about 90 minutes. I could also see from the seat allocation page that, if I upgraded to EconomyX class, I could sit in a row all by myself. I booked and paid for the flights myself, and packed up the things I had at the house. Then, I went to the airport and flew home. I wore a mask from the time I left the Canberra house until when I arrived home in Melbourne.
29. I feel guilty about having flown with covid but I still think it was the safest option in the circumstances.

#### **Timing of the filing of these proceedings**

30. After 22 December 2023, I had booked annual leave until 9 January 2023. That was going to be the first time I had taken a substantial period of annual leave with my family in more than 18 months. So, I spent that time with my family.



31. I did not contact my lawyers until after my period of leave. It being early January, and the termination of employment not being scheduled to occur until 31 January 2023, are the reasons why this application was lodged on 25 January 2023.

**Response to specific points in Dr Ryan's affidavit**

32. At paragraph 57 of Dr Ryan's affidavit, Dr Ryan says another team member was present for the discussion on 25 September 2022. That is not true.
33. Ms Miller did attend Dr Ryan's house that evening, but Ms Miller was not present for the meeting I describe in paragraph 29 of my first affidavit, because she had arrived on a later flight, and didn't arrive at Dr Ryan's house until after the discussion in paragraph 29. So it is not true that Dr Ryan's account of the meeting could be 'independently corroborated' by another staffer (or anyone else).
34. At paragraph 59(c), Dr Ryan says 'we were a fully staffed office'. That is not true.
35. On 30 September 2022, Ms Simmons was on leave. Ms Simmons had a week of annual leave booked around this time. She also took a week of personal leave before her week of annual leave, so she was not at work for two weeks straight. I can't remember whether 30 September 2022 fell during Ms Simmons' personal leave or her annual leave, but I recall that she was on leave.
36. Ms Miller also took annual leave around that time because it was the September school holidays, so she could spend time with her kids. I can't recall whether Ms Miller was back from leave on 30 September 2022, but I recall that she took leave around that time.
37. We were also in the process of recruiting a diary manager for Dr Ryan, because Dr Ryan had let the previous diary manager go at the end of July 2022. So we were also down a diary manager, even though we had electorate staff budget for that role.
38. So it is not correct to say we had a 'fully staffed' office. Plus, even putting aside the temporary absences of Ms Miller and Ms Simmons, I don't agree that we were a 'fully staffed' office. As I discuss in my first affidavit, the Prime Minister had significantly reduced our office's allocation of personal staffers, something that Dr Ryan had complained about to me (and publicly) on several occasions.
39. In paragraph 86, Dr Ryan says that I told her I had a letter from my GP saying I should get on a plane with COVID. I didn't have any such letter, nor did I tell Dr Ryan that I did. I had discussed what I should do if I got COVID again with my GP, but I did not have any letter from her.
40. In paragraph 90, Dr Ryan says her understanding is that I had not done any work on native forests.

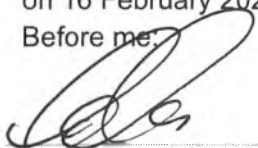


41. On behalf of Dr Ryan I had:

- (a) encouraged Dr Ryan to move a motion in the parliament aiming to protect native forests;
- (b) researched native forests for Dr Ryan;
- (c) provided Dr Ryan with briefing materials about native forests;
- (d) briefed out a series of social media posts about native forest logging;
- (e) pitched the motion Dr Ryan was moving to two journalists from the Age newspaper;
- (f) organised other traditional media about the motion;
- (g) organised for two other MPs to second the motion, and to speak on it;
- (h) sought to organise a photo opportunity for Dr Ryan and those two MPs related to the motion;
- (i) spoken to staff in the offices of Senators (in particular, to Senator David Pocock's office) to drive home to them that the issue was important and to make sure the offices were informed about the issue; and
- (j) prepared a social media response to a report from the Government on related legislation.

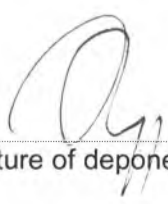
42. I had also discussed my history of involvement in environmental issues, and my opinions on environmental issues, with Dr Ryan in general conversation.

Affirmed by the deponent  
at Melbourne  
in Victoria  
on 16 February 2023  
Before me:

  
Signature of witness

Angus Mackenzie of  
Level 21, 380 La Trobe Street  
Melbourne Victoria 3000  
an Australian Legal Practitioner  
within the meaning of the  
Legal Profession Uniform Law (Victoria)

)  
)  
)  
)  
)

  
Signature of deponent



**Schedule**

No. VID44 of 2023

Federal Court of Australia  
District Registry: Victoria  
Division: Fair

**Sally Rugg**

Applicant

**The Commonwealth of Australia**

First Respondent

**Dr Monique Ryan MP**

Second Respondent

Date: 16 February 2023

## Certificate Identifying Annexure

No. VID 44 of 2023

Federal Court of Australia  
District Registry: Melbourne  
Division: Fair Work

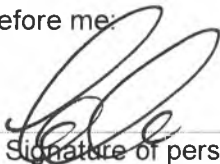
**Sally Rugg**

Applicant

**The Commonwealth of Australia** and another named in the schedule  
Respondents

This is the annexure marked "**SR-22**" now produced and shown to Sally Rugg at the time of affirming her affidavit on 16 February 2023

Before me:

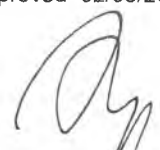


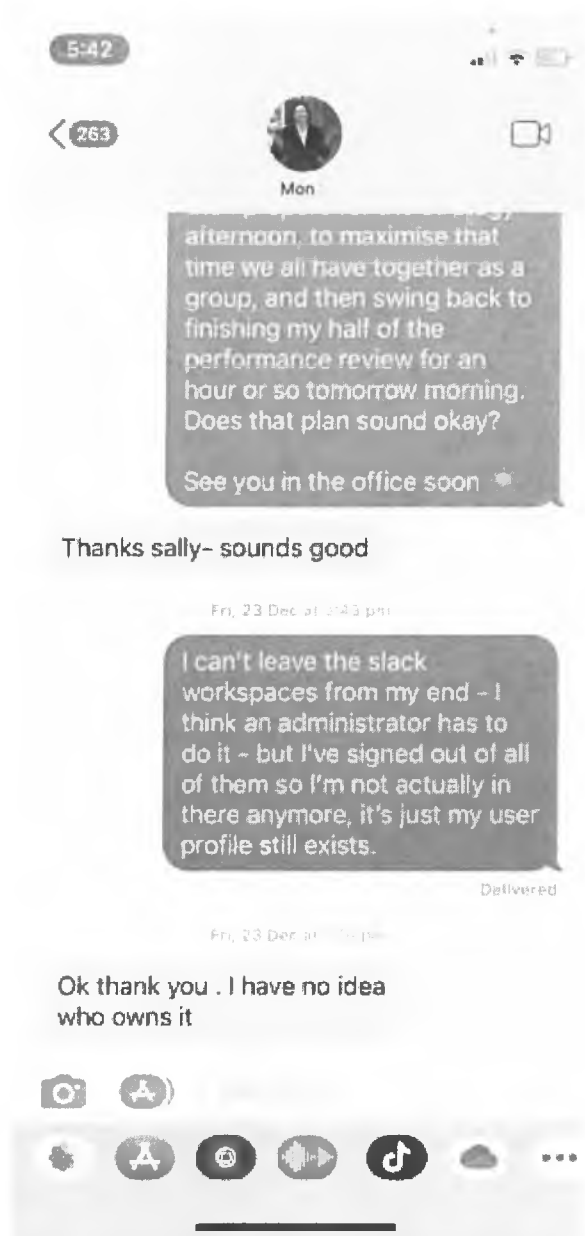
Signature of person taking affidavit

Annexure "SR-22"

Filed on behalf of (name & role of party)	Sally Rugg, Applicant
Prepared by (name of person/lawyer)	Angus Mackenzie
Law firm (if applicable)	Maurice Blackburn Lawyers
Tel	03 5018 4019
Fax	-
Email	AMackenzie@mauriceblackburn.com.au; EmilyCreak@mauriceblackburn.com.au; JBornstein@mauriceblackburn.com.au
Address for service (include state and postcode)	Level 21, 380 La Trobe Street, Melbourne VIC 3000

[Version 3 form approved 02/05/2019]





## Certificate Identifying Annexure

No. VID 44 of 2023

Federal Court of Australia  
District Registry: Melbourne  
Division: Fair Work

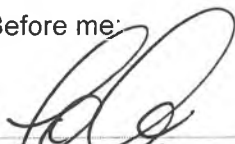
**Sally Rugg**

Applicant

**The Commonwealth of Australia** and another named in the schedule  
Respondents

This is the annexure marked "**SR-23**" now produced and shown to Sally Rugg at the time of affirming her affidavit on 16 February 2023

Before me:



Signature of person taking affidavit

Annexure "SR-23"

Filed on behalf of (name & role of party)	<u>Sally Rugg, Applicant</u>
Prepared by (name of person/lawyer)	<u>Angus Mackenzie</u>
Law firm (if applicable)	<u>Maurice Blackburn Lawyers</u>
Tel	<u>03 5018 4019</u>
Fax	<u>-</u>
Email	<u>AMackenzie@mauriceblackburn.com.au; EmilyCreak@mauriceblackburn.com.au;</u> <u>JBornstein@mauriceblackburn.com.au</u>
Address for service (include state and postcode)	<u>Level 21, 380 La Trobe Street, Melbourne VIC 3000</u>

[Version 3 form approved 02/05/2019]





Sally Rugg <sally.m.rugg@gmail.com>

---

## media

**Ryan, Monique (MP)** <Monique.Ryan@aph.gov.au>  
To: "sally.m.rugg@gmail.com" <sally.m.rugg@gmail.com>

Tue, Jan 10, 2023 at 8:31 PM

Hi Sally

I've had a few people from print and TV media request a chat about the Kooyong plans for the year etc, and have scheduled those in the next couple of weeks.

No doubt some will ask about you no longer being with the team.

As we discussed before Christmas, my take on this is that the personal staffer role is extremely challenging and really too much for one person, and that in the end it wasn't a good fit.

I don't propose to say anything more than that to anyone.

Nina O'Connor has taken a leave of absence from C200 and will join the team as Acting Chief of Staff from 1.2.23.

Please let me know when you want to discuss your reference or the above.

Mon

**Dr Monique Ryan, MP**

Independent Federal Member for Kooyong

T: (03) 9326 2900

E: monique.ryan.mp@aph.gov.au

moniqueryan.com.au

Instagram | Twitter | Facebook

I acknowledge the traditional owners of the land on which I live and work, and pay my respects to their elders, past and present.