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Form 59
Rule 29.02(1)

Affidavit of David Hodgett

VID 1023 of 2023

Federal Court of Australia
District Registry: Victoria
Division: General

MOIRA DEEMING
Applicant

JOHN PESUTTO
Respondent

Affidavit of:	**David Hodgett**
Address:	[redacted]
Occupation:	Member of Parliament
Date:	27 May 2024

I, David Hodgett, of [redacted], say on oath:

Background

1. I have been a Liberal Member of the Victorian Legislative Assembly since 2006, representing the electorates of Kilsyth (2006 to 2014) and Croydon (2014 to date).

2. I was the Deputy Leader of the Victorian Liberal Party from December 2014 until December 2018.

3. I currently hold the positions of Shadow Special Minister of State, and Shadow Minister for Employment and Industrial Relations.

Exhibit DH-1

4. Exhibited to this affidavit is a paginated bundle of documents marked '**Exhibit DH-1**'.

Filed on behalf of (name & role of party) Moira Deeming, Applicant
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Factual Summary

5. I was unaware that the 'Let Women Speak' rally (**the Rally**) had taken place on Saturday 18 March 2023 until John Pesutto called me in the evening of Sunday, 19 March 2023. He said, in effect, that there had been a rally, that it was gate-crashed by neo-Nazis, that Moira had been involved, and that he was moving a motion to expel her from the Victorian Parliamentary Liberal Party. It was a short, one-way conversation; he was not seeking my views or opinions; he was telling me what he was proposing to do.

6. [redacted]

7. Very shortly after John called me in the evening of 19 March 2023, he sent an email to me and other Members of the Victorian Parliamentary Liberal Party which I understand was subsequently published to his website and to the website of the Victorian Liberal Party (**Media Release**). I thought his email must have been pre-prepared ahead of his call to me because my recollection is that I received it only about 15 or 20 minutes after his call. Other than John's call to me, the Media Release was the first I had heard of any concerns about Moira's attendance at the Rally. As far as I can recall, nobody was speaking about Moira's attendance at the Rally until the Media Release.

8. The Media Release was issued on a Sunday. We were about to go into a sitting week. My view was that the Media Release and the issues raised in it should have been paused, given the sitting week would afford the opportunity for the issues to be discussed internally during the sitting week and kept private. In my view, John should have sounded out his colleagues and sought input and further information about what had happened at the Rally, before deciding/proposing a position.

9. I thought the proposed expulsion was very serious. An expulsion is a method of last resort. After reading the Media Release, I didn't understand the grounds for the expulsion. I recall speaking with colleagues, trying to work out what Moira had done wrong. I recall Kim Wells asking 'What is the charge? What is she guilty of?'. There was confusion about why she allegedly deserved to be expelled. I also did not know what had happened at the Rally. I was trying to work out what had really occurred, including the extent of Moira's involvement, why the Nazis had turned up, and whether they were part of the Rally or had crashed it.

10. The next day, 20 March 2023, John gave interviews to the media. While it is understandable that he would field questions from the media, I thought he should have

avoided speaking publicly about the details of the proposed expulsion until it had been discussed and voted on by the party. I recall that around this time John was asked about what had been discussed at the meeting he and the Leadership Team had had with Moira on 19 March 2023 and he said he could not talk about it because it was an internal matter.

[redacted]

11. In the evening of Monday, 20 March 2023, John sent a further email to me and other Members of the Victorian Parliamentary Liberal Party which attached the expulsion motion (**Expulsion Motion and Dossier**). I did not find the Expulsion Motion and Dossier persuasive in terms of the case for expelling Moira. There were a lot of screen-shots taken from the internet about people other than Moira. I did not think it had any weight at all.

12. The Expulsion Motion and Dossier were leaked to the press. I thought this was really inappropriate and should not have occurred, especially prior to the vote on the Expulsion Motion. The matter should have been dealt with 'in house'. It was a matter for the party room, not for the court of public opinion.

13. After the Media Release and the Expulsion Motion and Dossier were made public, I recall we were inundated with email messages from the public.

14. Subsequently, but prior to the party room meeting on 27 March 2023, I had discussions with John because I hoped and thought it might be possible to reach a compromise whereby Moira could remain in the party without people questioning John's leadership. My sense at the time was that most Members thought John should continue as leader but that Moira shouldn't be expelled. I told him I thought an expulsion was too harsh. John told me, in effect, that it was too late – that he had taken a position and he had to see it through. I recall urging him to reach a compromise. I thought this would be the most satisfactory outcome not only for Moira but also for him and the Liberal Party. It needed to be resolved. I told him my view was that, at worst, Moira might have shown dubious judgment politically by associating with individuals who might have questionable or even offensive views but that this was not a hanging offence.

15. I also had several conversations with Moira around this time about whether she might be willing to accept a compromise. I was trying to explore whether there were options other than an expulsion. She appeared quite calm and measured, although I could see she was obviously deeply upset by what John had said about her and what was happening. She thought she had done nothing wrong.

16. There was a party room meeting on 21 March 2023 (**21 March Meeting**).

17. At pages 1 to 4 of Exhibit DH-1 is a copy of Renee Heath's minutes of the 21 March Meeting, which to the best of my recollection is an accurate summary of what was said at the 21 March Meeting.

18. I recall that at the 21 March Meeting there was discussion of Richard Riordan's motion to delay the Expulsion Motion. The general sentiment, from those in favour of delaying the Expulsion Motion, was that the whole process had been rushed and we needed more time to reach a sensible resolution. My impression at the time was that the majority of Members thought an expulsion was too severe, and we needed a resolution which would allow John to remain in his position as leader without Moira being expelled. It was also obvious to me, and I thought it was obvious to others at the time too, that Moira was not associated with any Nazi groups or sympathisers. The majority of Members I spoke to also thought it was quite reasonable for Moira to have attended the Rally.

19. On 27 March 2023, there was a party room meeting to vote on the Expulsion Motion (**27 March Meeting**).

20. At the 27 March Meeting, Renee Heath, the Secretary, was taking notes of what was said. She was a very fast typist and would types notes straight onto her laptop. I recall there was subsequently a dispute about Renee's notes of the 27 March Meeting because three versions of the notes were produced. Those three versions are at pages 5 to 21 of Exhibit DH-1. To the best of my recollection, each of those versions accurately reflects what was said and what occurred at the 27 March Meeting.

21. At the 27 March Meeting, I said words to the following effect:

> *Sadly, this issue has become a vote for one or for the other when the majority in the room probably want both. I spent quite a bit of time with Moira this week and I am sure she would do things differently if we had our time again, and so would the leadership. A lot of us are pissed off that we are placed in this position where we have to choose one or the other. I cannot believe that the 31 of us in this room cannot find a sensible way forward. I urge that we find a sensible way forward. Some of the behaviour on both sides was absolutely appalling.*

22. I recall Moira making an impassioned speech. She revealed some very personal matters, about her past and why she is the person she is. She was visibly upset and I recall her crying. After Moira spoke, I did not know if the Expulsion Motion would pass. [redacted] He beckoned me over. He asked if I thought Moira would accept a suspension instead of expulsion. I said I didn't know but would ask her. I asked her and she said she wouldn't accept a suspension. I went back to John and told him. There were then further discussions. Kim Wells and I spoke to Moira. I recall Kim saying she had to accept some form of compromise. She was upset because she didn't think she deserved any form of punishment. Kim and Moira and I discussed whether she might accept a suspension for 3 or 6 months. I was concerned because we were negotiating on the run. I thought we should have resolved this

beforehand which is exactly what I had attempted to do in the lead up to the meeting. Eventually, Moira agreed to accept a 9 month suspension. John was prepared to accept this, even though it would mean some embarrassment for him.

23. The terms of the compromise were read out. They were read out several times so it was clear what we were voting on. Then the party room voted on and approved the compromise. The compromise was that Moira would accept a 9 month suspension and there would be a joint statement from her and John, making it clear that Moira was not being accused of being a Nazi, or Nazi sympathiser.

24. After the meeting, I had left Parliament House when Kim Wells called me. He asked me to return to Parliament to help Moira with her part of the statement. He said it was too important and one of us had to help her. So I returned to Parliament. Moira and I were going to head over to the Opposition Rooms at 157 Spring Street to meet David Southwick MP and Nick Johnston (who at that time was John's Communications Director), however the Parliamentary precinct was still crawling with media and I realised there was a potential problem that we would be accosted by media if we left the building. The media were awaiting the joint statement. As such, we agreed to meet David and Nick in the Liberal Party Room.

25. There were discussions about the wording of the statement. There was a meeting with me, Moira, David, and Nick, and then a subsequent meeting with the same people but also Moira's husband, Andrew. There was a laptop which I think was Nick's which we were sharing back and forth, revising a draft media statement. David and Nick had prepared the first draft and then we took it in turns to revise it. Moira was upset at the early versions of the statement proposed by David and Nick and I recall she got up and left at one stage. David said if she did not agree to it we would be back to square one and would have to vote on the expulsion motion. I suggested we provide Moira's own wording rather than use their wording. We called Kim Wells and he provided guidance. We helped Moira prepare an alternative form of words.

26. At one point Moira asked where John's words were. She thought her statement was going to be merged with a statement from John, to be a joint statement which would exonerate her. That was my understanding too. I thought John was preparing his own part of the statement. I thought the two statements would then be merged and put together, on a joint masthead.

27. I recall at one stage going to John's office. They were questioning whether it was a 'joint statement' or a 'jointly prepared' statement. One of his staffers (I think it was Gary Anderton) was frantically running around trying to get a copy of the meeting minutes, to clarify whether it was to be a joint statement or a jointly prepared statement.

28. The process took a long time. I recall some of the discussions were quite heated and Moira was indignant and shocked at some of the things David said to her.

29. Eventually, the form of words was agreed and I left. Moira was angry and frustrated. She clearly wasn't happy with the outcome. She said she felt she had been pushed into a position she shouldn't be in, and that she had done nothing wrong.

30. I was surprised when I subsequently saw that the statement had been published in Moira's name only without John's part. I had thought Moira was going to see John's words and agree on them, so it would be a joint statement.

31. At a subsequent party room meeting on 12 May 2023 (**12 May Meeting**), there was debate about the minutes of the 21 March Meeting and the 27 March Meeting. I had thought Renee Heath's notes of the 21 March Meeting and 27 March Meeting were accurate and, I have said above, they were consistent with my recollection of what had been said at those two meetings.

32. I believe, based on my experience as a Member of Parliament since 2006, that an allegation that a Member of Parliament has associations with neo-Nazis or Nazi sympathisers would be extremely damaging to that person's reputation. Without context, some will think the allegation is true, and the Member may then be subject to all kinds of unfair repercussions.

Sworn by the deponent)
at Melbourne)
in Victoria)
on 27 May 2024)
Before me:)

Signature of deponent

Signature of witness

Name and qualification of witness

Alex Porz
[redacted]
An Australian Legal Practitioner
within the meaning of the
Legal Profession Uniform Law (Victoria)