

NOTICE OF FILING

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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.

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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: **Nick Johnston**

Address: [Redacted]

Occupation: Self employed

Date: 24 May 2024

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Filed on behalf of (name & role of party) John Pesutto, Respondent
 Prepared by (name of person/lawyer) Peter Bartlett
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 (include state and postcode)

[Version 3 form approved 02/05/2019]

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I, **Nick Johnston**, of [REDACTED], solemnly and sincerely affirm:

1. I was previously the Director of Communications to Mr John Pesutto MP, Leader of the Opposition Party (**Mr Pesutto**).
2. I am currently self employed.

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My professional background

- 3. In 1989 I graduated University with a Bachelor of Arts (B.A.), (Journalism).
- 4. I have worked in the communications industry for the past 35 years in both journalism and public relations.
- 5. On or around 13 March 2023, I commenced my role as Director of Communications to Mr Pesutto.
- 6. During my time as Director of Communications I worked closely with various Senior Members of the Victorian Parliamentary Liberal Party (the **Party**) including Mr Pesutto, Georgie Crozier MP, Member for Southern Metropolitan (**Ms Crozier**) and David Southwick MP, Member for Caulfield (**Mr Southwick**), and Dr Matt Bach (**Dr Bach**), the then member for the North-Eastern Metropolitan (collectively, the **Leadership Team**).
- 7. On 3 March 2024, I resigned from my role as Director of Communications.

Saturday, 18 March 2023 – the Rally

- 8. On 18 March 2023, I was at home when I began to see that a rally organised under the brand "Let Women Speak" that took place near the steps of Parliament that afternoon (the **Rally**) had become a big story on social media.
- 9. That afternoon and evening, I recall following media coverage and commentary of the Rally via Twitter as well as watching the live reporting on my television. My recollection is that it was the story of the day on the evening news. My recollection is that the main story was that neo-Nazis had turned up, but the fact that Mrs Deeming was also in attendance was by then already a story too.
- 10. That evening at or around 6.30pm I had a brief telephone call with Mr Pesutto regarding the Rally, the substance of which was that Mr Pesutto was concerned about the Rally, that Neo-Nazis had appeared at the Rally, and the impact Mrs Deeming's attendance at the Rally may have on the Party, on her and on him as Leader of the Party.

Sunday, 19 March 2023

- 11. The next morning, Mr Pesutto called and informed me that the Leadership Team had organised to meet with Mrs Deeming to discuss her attendance at the Rally later that afternoon. Mr Pesutto informed me that the purpose of meeting was to give Mrs Deeming an opportunity to explain her side of the story, why she attended the Rally and what had happened at the Rally and why she did not leave when the neo-Nazis turned up. Mr Pesutto requested that I attend his office at 157 Spring St Melbourne that afternoon for a

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discussion with the Leadership Team prior to their meeting with Mrs Deeming. I understood that I would not be attending the meeting with Mrs Deeming but that because they were looking to get some sort of public statement or apology from her, I would need to advise and assist them with that.

12. At 10:48am Mr Rodrigo Pintos-Lopez (Mr Pesutto's then Chief of Staff) sent me a message via WhatsApp asking me to give him a call and requesting that I prepare a press release coming from Mrs Deeming about the Parliament house demonstrations yesterday. Annexed and marked **NJ-1** is a copy of the message I received from Mr Pintos-Lopez.
13. Later that afternoon, on 19 March 2023, I attended Mr Pesutto's office at 157 Spring St Melbourne. In attendance at that meeting was Mr Pesutto, Ms Crozier, Mr Southwick, Dr Bach and Mr Pintos-Lopez. I don't recall the specifics of the conversation but we discussed what had happened at and after the Rally and the links that other organisers like Kellie-Jay Keen (**Ms Keen**) and Angie Jones (**Ms Jones**) may have had to the neo-Nazis that attended the Rally.
14. It was apparent to me that prior to the meeting, members of the Leadership Team and Mr Pintos-Lopez had undertaken some research on Ms Keen and Ms Jones. I don't recall the specifics of all of the research discussed during the meeting, but I do recall being shown:
 - (a) Ms Keen's use of a Barbie doll wearing a Nazi uniform as a social media profile picture;
 - (b) Ms Jones's tweet after the Rally which stated 'Nazis and women want to get rid of paedo filth. Why don't you?'; and
 - (c) The video Mrs Deeming had made with the other organisers after the Rally.
15. I recall that the room was pretty disturbed by both the links that had been uncovered and the fact Mrs Deeming and the other participants had celebrated the Rally in the video after the neo-Nazis had turned up.
16. My understanding, based on the discussion amongst the Leadership Team, was that they agreed that the best course was to advise Mrs Deeming to apologise, politically distance herself from the Rally and to clarify that she and the Party had absolutely no association to neo-Nazi groups.
17. I recall the general consensus from the Leadership Team in that meeting was that Mrs Deeming needed to be given a chance to explain what had happened at the Rally and explain her side of the story before any disciplinary action was considered, but that there was a possibility Mrs Deeming would resign from the Parliamentary Liberal Party.

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18. I continued to monitor social media coverage and at 4:55pm sent a screenshot of a tweet via text message that depicted Mrs Deeming celebrating with champagne after the Rally to Alex Woff (**Mr Woff**), my Deputy Communications Director at the time. Annexed and marked **NJ-2** is a copy of the message I sent Mr Woff.
19. At or around 5pm the Leadership Team and Mr Pintos-Lopez left to meet with Mrs Deeming. I did not attend that meeting and waited in my office.
20. At 5:21pm I received a text message from Mr Pesutto that contained a draft form of words for a media statement. It was a form of words that reflected the earlier discussion regarding the possibility that Mrs Deeming may tender her resignation from the Parliamentary Liberal Party. Annexed and marked **NJ-3** is a copy of the message I received from Mr Pesutto. A few minutes later, I copied and pasted this message and sent it to Mr Woff to use as a draft version of the media release. A copy of those messages are annexed and marked **NJ-4**.
21. At 5:47pm I received an email from Mr Woff with a draft media release that left a placeholder for the outcome of Mrs Deeming's meeting with the Leadership Team to be inserted. Annexed and marked **NJ-5** is a copy of the email I received from Mr Woff.
22. During the course of the day, I received calls from journalists asking what we were going to do about the fact that Mrs Deeming had attended the Rally with Nazis. Our usual practice was for any conversations about matters like this to be off the record until we actually made a decision. I informed them we had no comment at this stage but would keep them posted. I was also in regular contact with Mr Woff throughout the day and although I do not recall the specifics of phone calls, it is likely we spoke over the phone to discuss the developments of the day and wording of the media release.
23. At 6:03pm I received an email from Mr Woff with an updated draft of the media release which was preparing for the outcome of the meeting with the Leadership Team to be an expulsion motion. I do not recall specifically how I was informed of this option becoming the likely outcome and can only assume it was based on an update I was given during a break in the meeting that I then passed on to Mr Woff and which he inserted into the draft media release. Annexed and marked **NJ-6** is a copy of the email I received from Mr Woff.
24. I recall that following the conclusion of the meeting with Mrs Deeming, the Leadership Team returned to my office. Mr Pesutto and Mr Southwick informed me that the meeting had not gone well, Mrs Deeming had said she had done nothing wrong and had nothing to apologise for, and confirmed that the Leadership Team was going to move to expel Mrs Deeming.

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25. Mr Pesutto and the Leadership Team were aware of the media interest in the story and that I had received calls from journalists. It was obvious that the move to expel Mrs Deeming was going to be a big story.
26. While I do not recall precisely what he said, I recall Mr Pesutto made it clear to me that the intention of the media release was to:
- (a) condemn the Rally, and Mrs Deeming's at the attendance at the Rally, in clear and unequivocal terms (see lines 1 to 4);
 - (b) convey to the public that, while the Liberal party was a broad church, it was unacceptable for Mrs Deeming, or any member of Parliament, to associate with individuals such as Ms Keen and Ms Jones, who had been publicly associated with far right wing extremists and neo-Nazi groups (see lines 5 to 7 and lines 10 to 11);
 - (c) tell the public that we intended to move a motion to expel Mrs Deeming (see lines 8 and 9); and
 - (d) reiterate the values of the Liberal party under Mr Pesutto's leadership (lines 12 to 18).
27. In particular, lines 12-18 of the statement is based off the draft statement that Mr Pesutto had messaged me at 5:21pm and reflected his own words. I remember him being particularly strong on wanting to use the words 'bond of an essential humanity' to describe the characteristics of the Party he wanted to lead.
28. I recall that the agreed strategy was to issue the media release that evening, and that Mr Pesutto would hold a press conference the following morning.
29. Mr Pesutto, Mr Pintos-Lopez, Mr Southwick and I worked together to finalise the wording of the media release. I recall Ms Crozier and Dr Bach were not involved in drafting or finalising the wording.
30. At 7:41pm I sent an email to Mr Woff with the latest version of the media release, instructing him to "prepare this but don't send yet". Shortly afterwards, Mr Woff distributed a final version of the media release via email, with wording that was slightly tweaked from the 7:41pm draft I had sent him. Annexed and marked **NJ-7** is a copy of the email I sent Mr Woff and annexed and marked **NJ-8** is a copy of the Media Release provided by the Office of John Pesutto, Leader of the Victorian Liberal Party dated 19 March 2023.
31. Shortly after the Media Release was distributed, I received numerous phone calls from the media with questions regarding the statement. I do not recall who contacted me or any of

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the specifics of those conversations, but I do recall that I wouldn't have been able to add much to what was already stated in the Media Release, save to say that it would be at least a week before the expulsion motion was voted on.

32. At 8:30pm I received an email from Mr Pintos-Lopez, with Mr Pesutto and Chantelle Asmar copied, which attached a one-page document summarising material concerning Ms Keen (also known as 'Posie Parker'). Annexed and marked **NJ-9** is a copy of the email from Mr Pintos-Lopez and the attached one-page document summarising material concerning Ms Keen, dated 19 March 2023.

Monday, 20 March 2023 – Media appearances

33. Following the Media Release being issued, I received a number of requests from the media for Mr Pesutto to be interviewed the following day, including requests from 3AW Radio, ABC News and Sky News. Mr Pesutto told me words to the effect that it was important to attend a range of interviews to explain the decision to the public and to respond to any questions. From my discussions with Mr Pesutto, we both agreed that it was not appropriate to just put out a statement and refuse to answer any questions about it.
34. To the best of my recollection Mr Pesutto attended the following interviews on 20 March 2023:
- (a) a 3AW Melbourne radio interview with Neil Mitchell;
 - (b) an ABC News Breakfast interview with Michael Rowland;
 - (c) the Press Conference at Parliament House;
 - (d) a Sky News interview with Peter Credlin; and
 - (e) various media conferences for TV and radio networks.

Monday, 20 March 2023 –Expulsion Motion and Dossier

35. At 10:57am on 20 March 2023, I forwarded the email I received at 8:30pm on 19 March 2023 from Mr Pintos-Lopez which attached a one-page document summarising material concerning Ms Keen to Mr Woff so that he was aware of the background information. A copy of this email is annexed and marked **NJ-10**.
36. At 11:18am I was copied into an email from Glenn Corey (a policy advisor in Mr Pesutto's office) to Mr Pintos-Lopez that attached a fact sheet regarding Mrs Deeming which was based off the background document concerning Ms Keen, with additional information such as social media posts that had been collated. Annexed and marked **NJ-11** is a copy of the email from Mr Corey and the attached fact sheet regarding Mrs Deeming circulated on 20 March 2023.

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37. At 11:28am I forwarded the email I received at 11:18am from Mr Corey to Mr Woff and said 'Need to get this to TVs. Let's discuss first'. I held this view because some of the matters contained within the fact sheet were referred to by Mr Pesutto earlier that morning during his radio interview and it contained relevant information and background on the issues and individuals being discussed. All of the information within the document was on the public record and on social media accounts. I do not recall whether this document was shared with any journalists. A copy of the email I sent Mr Woff at 11:28am on 20 March 2023 is annexed and marked **NJ-12**.
38. At or around 8:45pm on 20 March 2023, I read online that *The Age* newspaper had published an article titled '*Deeming vows to fight move to expel her from party room*' (the **Article**). It was apparent to me from the Article that the Expulsion Motion and Dossier or parts of it had been leaked to *The Age*. I am not aware who leaked the Expulsion Motion and Dossier to *The Age*. However, I can say that I was not a party to any discussions about leaking it and do not believe it would have been anyone from the Leadership Team or Mr Pesutto's office.
39. I then had a discussion in person with Mr Pesutto and Mr Pintos-Lopez about the apparent leak. I don't recall the specifics of that conversation, but I do recall that we agreed it was in the public interest to distribute the Expulsion Motion and Dossier to journalists as it formed the basis of the proposed motion. I directed Mr Woff to distribute the Expulsion Motion and Dossier to journalist contacts who would have wanted a copy. Annexed and marked **NJ-13** is a copy of the dossier provided to the media on 21 March 2023.

Monday, 27 March 2023

Party room meeting

40. At or around 9:00am on 27 March 2023, prior to the commencement of the party room meeting, Mr Pintos-Lopez and I attending a meeting with the Leadership Team. I recall the purpose of the meeting was to discuss how the meeting might unfold and what the numbers were looking like surrounding the vote.
41. At or around 10:00am on 27 March 2023, the Party room meeting commenced. I did not attend that meeting. At or around midday I received a text message from Ms Crozier to the effect that the party room meeting had concluded and requested that I attend the Party room, which I did. Present were the Leadership Team and Mr Pintos-Lopez. I don't recall who said what, but it was relayed to me in general terms that there had been a decision made not to expel Mrs Deeming or put the expulsion motion to the vote. I was told the meeting was very difficult, very emotional and that a lot of members had spoken and given their views on the issue. It was further relayed to me that Mrs Deeming had spoken about

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her history of sexual abuse. I was then informed that the Party had resolved to suspend Mrs Deeming for a period of 9 months. Mr Pesutto asked for my view on his decision to back away from expelling Ms Deeming and I replied it was "not good" as I believed it would damage Mr Pesutto's leadership.

42. Mr Pesutto informed me to the effect that the Leadership Team had agreed to assist Mrs Deeming to prepare a statement to go out that afternoon, and asked me to help prepare that statement.

Drafting and release of the 27 March 2023 statement

43. Shortly thereafter, the Leadership Team held a press conference to communicate what had transpired at the party room meeting to the public, which I attended. I then went back to 157 Spring St Melbourne to start drafting a statement for Mrs Deeming.

44. That day I had two meetings with Mrs Deeming regarding the statement.

45. At the first meeting I recall that myself, Mrs Deeming, Mr Southwick, Mr Pintos-Lopez and the Honourable David Hodgett MP, Member for Croydon (**Mr Hodgett**) were present. I recall that the meeting was difficult and Mrs Deeming was very agitated and upset. I recall providing her with a copy of the first draft of the statement, and she was very unhappy with it. I also recall I then tried to begin talking about possible amendments to the draft and Mrs Deeming got up and abruptly left the meeting.

46. Myself, Mr Southwick, Mr Pintos-Lopez and Mr Hodgett then returned to 157 Spring St Melbourne. I do not recall how, but a second meeting with Mrs Deeming to work on the statement was organised.

47. That second meeting took place mid afternoon. Myself, Mr Southwick, Mr Hodgett, Mrs Deeming and her husband were present. Mr Pintos-Lopez informed me that he had decided not to attend.

48. That meeting was much more productive, and I recall that Mrs Deeming and I worked off the same laptop making and discussing successive changes to the statement. The meeting went for approximately twenty to thirty minutes.

49. In my view, all those involved in the meeting worked in good faith to reach a position of compromise. I recall there being good faith negotiations on both sides as to the wording of the statement. At no point was it ever indicated to me by anyone that the statement was to be a joint statement from Mr Pesutto and Mrs Deeming. At all times I understood it was to be a statement by Mrs Deeming alone. That also seemed clear to me from the heading language (which was all in her own voice and and repeatedly used the word "I") in the draft

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statement we were working on. However, it was also my understanding that the statement would be issued by Mr Pesutto's office as Members of the Opposition do not maintain their own media distribution list.

- 50. After the meeting I called Mr Pesutto to read him the proposed wording and he said he was happy with it. Following this, I provided the agreed statement to Mr Woff and requested that he confirm the wording with Mrs Deeming before releasing it.
- 51. Shortly afterwards, Mr Woff relayed to me that Mrs Deeming confirmed she agreed to the wording.
- 52. Shortly after 7:00pm that evening, pursuant to my instructions, Mr Woff released the statement through Mr Pesutto's office in Mrs Deeming's own name. Annexed and marked **NJ-14** is a copy of Moira Deeming MP's statement released by the Office of John Pesutto MP, Leader of the Opposition and Victorian Liberal Party dated 27 March 2023.

Affirmed by the deponent
at 447 Collins St Melbourne 3000
in Victoria
on 24 May 2024

Before me:

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Signature of deponent


Signature of witness

Deanna Constantina Ficatas

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

This affidavit was affirmed and witnessed in accordance with the *Oaths and Affirmations Act 2018* (Vic)

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[witness]