

## **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: 27/05/2024 2:57:25 PM AEST  
Date Accepted for Filing: 27/05/2024 2:57:44 PM AEST  
File Number: VID1023/2023  
File Title: MOIRA DEEMING v JOHN PESUTTO  
Registry: VICTORIA REGISTRY - FEDERAL COURT OF AUSTRALIA

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: 27 May 2024

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

#### Background

1. I have been a Member of the Liberal Party since 2007, having served in a variety of roles.
2. In November 2022, I was elected as a Liberal MP, representing Western Victoria Region.
3. I currently serve as Shadow Parliamentary Secretary for Regional Economic Development (since November 2022) and as Opposition Whip in the Legislative Council (since October 2023).
4. Prior to entering politics, I was a qualified accountant, teacher, Councillor and Mayor.

*Michael McNeil*

*J McCracken*

Filed on behalf of (name & role of party)	Moira Deeming, Applicant	C/O HONORARY JUSTICE SERVICES SUPPORT
Prepared by (name of person/lawyer)	Patrick George, Solicitor	[Redacted]
Law firm (if applicable)	Giles George	JUSTICE OF THE PEACE FOR VICTORIA
Tel	1300 204 602	Fax [Redacted]
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	

**Evidence**

- 5. As part of my evidence, I also submit a bundle of documents titled '**JM-1**', which includes copies of:
  - (a) An e-mail from John Pesutto MP to all Liberal MPs, dated 19 March 2023 (pages 1 and 2 of '**JM-1**');
  - (b) An e-mail from John Pesutto MP to all Liberal MPs, dated 20 March 2023 (pages 3 to 20 of '**JM-1**');
  - (c) Minutes of a party room meeting held on 21 March 2023 (pages 21 to 24 of '**JM-1**'); and
  - (d) Three versions of minutes of a party room meeting held on 27 March 2023 (pages 25 to 41 of '**JM-1**').

**My relationship with Moira Deeming and John Pesutto**

- 6. Prior to entering politics, I had little contact with either John or Moira. Upon entering politics at the 2022 state election, I found both John and Moira to be pleasant.
- 7. I had more to do with Moira because she had been appointed Opposition Whip in the Legislative Council. She seemed organised and prepared. I didn't have a particular view about her, other than that she held conservative values. Some people agreed with her, others did not – I didn't think that was unusual.
- 8. At the time I hadn't had as much to do with John, however our interactions had been cordial.

[REDACTED]

- 9. [REDACTED]

**E-mail and media release after the rally**

- 10. On 18 March 2023, the day of the 'Let Women Speak' rally, I remember seeing the evening media which reported that Neo-Nazis had gatecrashed the event. I don't remember seeing any media reporting that Moira had any association with the Neo-Nazis. I did think their attendance was odd.
- 11. On 19 March 2023, I received an e-mail from John (at pages 1 to 2 of '**JM-1**') which outlined his intention to expel Moira from the Parliamentary Liberal Party. I thought the e-mail suggested Moira was associated with Neo-Nazis. I hadn't seen Moira do anything

*John Pesutto*

*Michael McNeil*

MICHAEL MCNEIL JP  
 HONORARY JUSTICE SERVICES SUPPORT  
 JUSTICE OF THE PEACE FOR VICTORIA

which suggested she was linked to Neo-Nazis, and I thought John had jumped to a conclusion too soon.

12. My understanding is that the substance of the e-mail was translated into a media release and published online. The situation was moving very quickly and I thought more time should have been taken to consider the situation carefully. If anybody is to be accused of having links with Neo-Nazis then you'd want to make sure you had clear supporting evidence. I didn't have any prior knowledge that the contents of the e-mail, which ended up being a media release, would be sent and then made public.
13. To protect the party and the privacy of individuals, my hope has always been for these matters to be dealt with internally first.

#### More news media

14. On 20 March 2023, I was aware that John had done a series of media appearances regarding the rally and Moira. I felt uncomfortable about this and had hoped that all internal processes had been exhausted.
15. I heard snippets of an interview John did on 3AW, but I didn't hear the entire interview. I knew it had happened because people were talking about it, and at the time I made regular appearances on 3AW.

#### Expulsion motion

16. On the evening of 20 March 2023, I received an e-mail from John (at pages 3 to 20 of 'JM-1'). Attached to that e-mail was a letter outlining the expulsion motion and a dossier. I didn't think the dossier was particularly sophisticated. I didn't think it supported the assertion that Moira had links to Neo-Nazi activists. My understanding was that it was being claimed that Moira was linked with Neo-Nazis, and that is why she should be expelled.

#### Party room meeting on 21 March 2023

17. My memory of this meeting is consistent with the minutes (at pages 21 to 24 of 'JM-1').
18. I remember Richard Riordan moved a motion to delay the expulsion motion. A number of people spoke for and against the motion. I didn't speak, but I voted in favour of it. I voted in favour of it because I thought it might provide some time for John and Moira to negotiate some sort of internal resolution.

#### Meeting with John

19. Renee Heath and I met with John in my Parliamentary office during the Parliamentary sitting week of the week starting 20 March 2023, because Renee and I were both worried the situation was getting out of hand. I told John that he didn't have

*J. McCrae*

*Michael McNeil*

MICHAEL MCNEIL JP  
C/O HONORARY JUSTICE SERVICES SUPPORT

JUSTICE OF THE PEACE FOR VICTORIA

thought it would tear the party apart. I got the impression that John thought it was a "John's Leadership Vs Keeping Moira" situation. I didn't share that view. I thought both could survive.

**Party room meeting on 27 March 2023**

20. My memory of this meeting is consistent with the three sets of minutes (at pages 25 to 41 of 'JM-1').

21. I felt awful going into this meeting, my stomach was churning. I remember that various people spoke for and against the expulsion motion. To the best of my memory, I said words to the effect of:

*I love the Liberal Party but I hate this situation. I hate it beyond belief. When I gave my maiden speech, there were a lot of people who supported me. Moira came up to me and looked me square in the eyes and said, 'Joe, I am proud of you'. They are not the words of someone who hates gays or lesbians. I saw Moira for who she was. I am now put in an impossible situation because I am made to choose between two people I respect. Whichever way this vote goes, it's going to be crap. I don't even want to walk out there. We need to find an option that saves face for John, but saves Moira.*

22. I was very emotional during the meeting. Moira had shown me kindness after my maiden speech and I didn't think she was associated with Neo-Nazis or sympathised with them.

23. I remember Moira speaking. Her speech was powerful, but she was visibly distressed. She cried when she revealed intensely personal and traumatic experiences from her past. I was emotional at that stage of her speech, and as I looked around the room I saw others were too. I thought it was unfair she had to reveal these deeply personal experiences to ensure others understood why she held certain views. My impression was that Moira's speech caused a lot of people to reconsider their position. [REDACTED]

24. When Moira concluded there was a short break. I remember seeing Kim Wells and Ryan Smith speaking with Moira and John, trying to broker a compromise. The meeting resumed and it was announced a deal had been reached. The terms of the compromise were read out and put to a vote that was agreed to. My understanding of the agreement was:

(a) Moira would be suspended for 9 months;

(b) Moira would re-enter the party room in late 2023 or early 2024; and

*J. McCreath*

*Michael N. Walsh*

MICHAEL MCNEIL JP  
BY HONORARY JUSTICE SERV

JUSTICE OF THE PEACE

(c) A joint statement from Moira and John would be prepared and agreed, which would make it clear that Moira was not a Neo-Nazi and did not have those sympathies. I understood both parties would have input and would have to agree to the content of the media statement before it would be published in both their names.

25. I was pleased and also relieved that a compromise had been reached. I thought as a party we'd be able to move on and focus on our job.

**The aftermath**

26. I had hoped that things would settle down. But in the subsequent weeks the situation eventually escalated again when there was disagreement on the fulfillment of the terms of the agreed compromise reached in the party room on 27 March 2023.

27. The issue was again brought to the party room on 12 May 2023, and Moira was voted out of the Parliamentary Liberal Party.

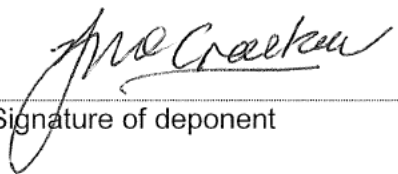
**Since the expulsion**

28. I have seen Moira around Parliament since the events of 19 and 20 March 2023. I can tell the experience has impacted her. She has lost weight and she has told me she is stressed and anxious. She said that she feels Parliament is hostile towards her. I get the impression that Moira is trying to put on a brave face, but it's taking a toll.

29. I haven't spoken to John about the matter at all since the successful expulsion motion of May 2023.

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

)  
)  
)  
)  
Signature of deponent



Michael McNeil  
Signature of witness

**MICHAEL MCNEIL JP**  
CO-HONORARY JUSTICE SERVICES SUPPORT  
Name and qualification of witness [REDACTED]  
JUSTICE OF THE PEACE FOR VICTORIA