

Affidavit

VID1023/2023

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

MOIRA DEEMING

Applicant

JOHN PESUTTO

Respondent


Affidavit of: **John Pesutto**
Address: 197-199 Riversdale Road Hawthorn 3122 Victoria
Occupation: Victorian State Member of Parliament
Date: 27 May 2024

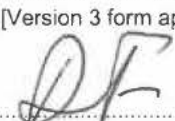
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John Pesutto 


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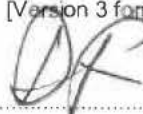
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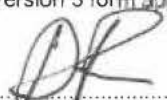
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I, **John Pesutto**, State Member for Hawthorn and Leader of the Victorian Liberal Party, of 197-199 Riversdale Road Hawthorn VIC 3122, in the State of Victoria, solemnly and sincerely affirm:

1. I am a member of the Victorian Parliament for the electoral district of Hawthorn in the Legislative Assembly. I was elected on 26 November 2022, having previously been the Member for Hawthorn between 2014 and 2018.

My political background

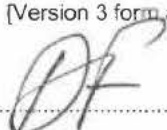
2. In November 2014, I was elected as the State Member for Hawthorn. Between December 2014 and December 2018, I was the Shadow Attorney-General.
3. I lost my seat during the 2018 Victorian State Election, after which I became a Senior Fellow at the School of Government at the University of Melbourne.
4. On 14 December 2021, I was endorsed as the Liberal candidate for the electoral district of Hawthorn, and I won re-election in the Victorian State Election on 26 November 2022.

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5. On 8 December 2022, I was elected as Leader of the Victorian Parliamentary Liberal Party (**the Party**).

My values

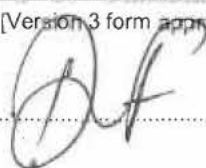
6. I joined the Liberal Party of Australia (Victorian Division) when I was 22 years old because I have always believed in and espoused values of individual liberty, personal responsibility, the responsible exercise of freedom of speech, equality of opportunity, an enterprising culture, the rule of law and a just and humane society. I believe that Liberal values inspire us to unite rather than divide, and to include rather than exclude. [REDACTED]
[REDACTED]
7. It was a searing experience losing my seat in 2018. I felt the Party lost seats like Hawthorn because we had, as a Party, drifted from the mainstream. In the intervening years before I won re-election, I spent time in deep reflection about my values and the future of the Party. I felt the Party needed to become and be perceived to be more mainstream. I wrote several opinion pieces in *The Age* newspaper during this time expressing my thoughts on policy areas.
8. On 19 November 2022, a week before the 2022 Victorian State Election, I was interviewed on Joy 94.9, where I outlined my values in a pitch to be re-elected in the electoral district of Hawthorn. A transcript of this interview is **Annexure JP-1** to this affidavit. In that interview, I relevantly said:
- (a) that "if I'm elected, I do want to try and help temper political debate generally, because I think [...] things like social media have fired it up to the point that we need people who can go into Parliament, bring people together, and temper the important discussions that we have to have";
 - (b) in response to a question about calling out homophobic and transphobic behaviour: "going into the Parliament, I would very much be calling out that sort of behaviour when it appears"; and
 - (c) "I'm a progressive modern liberal who believes in solutions and believes in opportunity, that we're free to be whoever we want to be, whoever we want to love, whoever ... whatever identity we want to adopt. I am an inclusive liberal...".
9. Between 28 November and 8 December 2022, after I had been elected and was campaigning to become leader of the Party, I spoke to several journalists and shared my views of what I wanted

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the Party to be. Copies of relevant media articles which accurately quote me are set out in **Annexure JP-2** to this affidavit. I relevantly said matters including:

- (a) "My commitment is to a Liberal Party that is inclusive and tolerant of diversity, and I'm confident that this commitment is shared by all" (Monday, 28 November 2022 *The Age*: 'Liberal leadership hopefuls walk away from Guy's promise to bar Renee Heath');
- (b) "Our core beliefs and values are what most Victorians believe in. We just have to sell it better" (Monday, 28 November 2022 *ABC News*: 'Victorian Liberal Party leadership contest widens after disastrous election result');
- (c) "We are a party of government and our aim and aspiration should be to connect with as many people right across the state of Victoria as we can. That includes people of faith, the inner city, the regions and rural areas" (Monday, 28 November 2022 *The Guardian*: 'Victorian Liberals raise 'faith values' and Labor-style broad appeal in jostle for party's leadership'); and
- (d) "If elected leader, we will see a Liberal Party that is inclusive that is committed to reaching all sides of the state" (Wednesday, 30 November 2022 *9 News*: 'Liberal leadership race heats up as John Pesutto wins Hawthorn seat').

10. I am a firm believer in liberalism. The heart of liberal philosophy as I understand it – an enterprising spirit and culture – is that its ethics can be exhibited by anyone. It is broad and universal enough to appeal to anyone.

11. I have always strived to represent and be a voice for all Victorians, regardless of background, because I believe that all people share an abiding bond of essential humanity. I believe that this inclusivity is an essential element of building a successful mainstream political movement in a strong and effective democracy. Any party seeking to form government must earn and keep the respect of voters across the breadth of the community. It is not just part of my values, but it is also a strategic imperative. To form government in Victoria, a party needs to win 45 seats in the Legislative Assembly. To win 45 seats, you have to represent a wide and diverse range of communities.

12. Under my leadership, my aim is for the Party to:

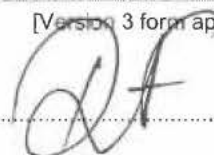
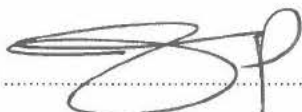
- (a) be a principled, professional, credible and modern alternative government for all Victorians;

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- (b) uphold the inherent dignity, responsibility and potential of all people;
 - (c) assist and protect those who are vulnerable or disadvantaged; and
 - (d) foster and celebrate an accepting, tolerant and diverse society.
13. As Leader of the Party, I am committed to leading with these values, and to ensuring these values are the bedrock of everything that I do as a Member of Parliament and as Leader of the Party.

Background to my dealings with Mrs Deeming and 2022 election

14. Prior to her election as a Member of Parliament, Mrs Deeming and I knew each other through our membership of the Liberal Party of Australia (Victorian Division). Our dealings with each other were pleasant and we got on amicably. In particular, I recall that we both attended a community safety event when I was Shadow Attorney-General. At the time, Mrs Deeming was becoming active in the Liberal Party of Australia (Victorian Division), and I was generally aware of her, but we did not have a lot to do with one another.
15. In about November 2021, I was endorsed as the Liberal candidate for the electoral district of Hawthorn.
16. In or around March 2022, I was aware that Mrs Deeming unsuccessfully sought endorsement as the Liberal candidate for the federal electoral division of Gorton. My understanding was (and is) that intervention from either the Prime Minister's Office (**PMO**) or the Liberal Party Federal Secretariat resulted in the rejection of her candidacy.
17. In May 2022, Bernie Finn, who had been elected to the Victorian Legislative Council as a Liberal Party candidate for the Western Metropolitan Region, was expelled from the Party.
18. I was not involved in that expulsion. However, I was generally aware that it occurred following a series of inflammatory social media posts over many months during the leadership of Michael O'Brien and Matthew Guy, including some relating to abortion and another comparing then Victorian Premier, Daniel Andrews, to Adolf Hitler.
19. At the time of the expulsion, Matthew Guy was the Leader of the Party. After the expulsion vote, it was widely reported that Mr Guy said:

"I expect people to uphold respectful discourse, whatever their issues may be ... it needs to be respectful".

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"It is not about the Liberal Party, not navel-gazing from a federal election or other issues, it is about moving on and being a sensible alternative."

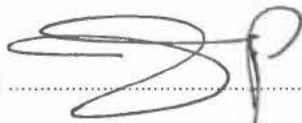
20. This operated on my mind while I was not a Member of Parliament. I had seen my predecessors' leadership undermined by the public comments of people such as Mr Finn. I thought they caused serious 'brand damage' to the Party and dragged on for many months. I recall thinking at the time that if I was ever the Leader of the Party, I would learn from this experience and not allow such conduct to continue and drag on.
21. Shortly afterwards, Mrs Deeming was endorsed as the Liberal Party candidate for the first spot on the group ticket for the Western Metropolitan Region at the November 2022 State Election. I generally recall there was some controversy surrounding her endorsement by the Liberal Party of Australia (Victorian Division) because of some of the views she had expressed on abortion and transgender issues, and comments she had reportedly published that the people behind Safe Schools were "paedophile apologists".
22. At the time, I was surprised Mrs Deeming had been selected as a Liberal Party candidate at a State level when she had not been considered suitable federally. I was worried she would hurt my candidacy in the electoral district of Hawthorn (and in other similar seats) because of what I perceived to be her notoriety. I was also conscious that the effect of her pre-selection as the Liberal candidate in the first spot on the group ticket in the Western Metropolitan Region was effectively a seat for life. In my experience, it was very rare for the PMO or the Liberal Party Federal Secretariat to have intervened and prevented Mrs Deeming's pre-selection at the federal level. I became aware later that Louise Staley, when representing the then state leader Matthew Guy, had voted against Mrs Deeming's endorsement as a candidate, as did the immediate past president Michael Kroger.
23. On 26 November 2022, Mrs Deeming was, like me, elected to the Victorian Parliament.
24. In early December 2022, when I was campaigning to become Leader of the Party, I had a casual meeting with Mrs Deeming over coffee at the Watergardens Hotel in Taylors Lakes in her electorate. During that meeting we had an open discussion about emerging media controversy surrounding her views in relation to transgender and sex-based rights.
25. My meeting with her was to seek her support but also allowed me to broach growing concerns, both my own and those of some of my parliamentary colleagues which had been expressed to me by them, that Mrs Deeming's public commentary in relation to transgender and sex-based rights would

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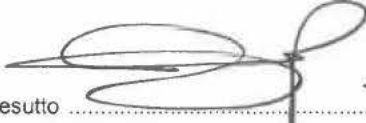
continue to attract controversy, not align with the Party's views of liberalism, and were perceived poorly in the community.

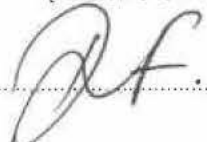
26. While I cannot now recall the precise words we each said, I said to Mrs Deeming words to the effect that I was supportive of her right to speak freely on her views on the issues that mattered to her, but as someone running to become Leader, I encouraged her to ensure that her position in relation to transgender and sex-based rights was not the only view for which she would become known. In substance and effect, I encouraged her to broaden her horizons now that she was a Member of the Victorian Parliament.
27. At the time, I felt the conversation was positive.
28. On 4 February 2023, I attended and spoke at an event, the Western Metropolitan Meet & Greet with Mrs Deeming and Party members at the Italian Social Club in Kylie Road, Altona North. It was a positive event. Mrs Deeming and I are pictured together at that event. Greg Mirabella and Warren Mundine also attended.
29. On the evening of 21 February 2023, Mrs Deeming delivered her inaugural speech in the Victorian Parliament. I attended and watched it, [REDACTED]
[REDACTED]
[REDACTED].
30. At the time, I was aware (through the reporting and commentary I and my office saw and discussed at the time), that Mrs Deeming's inaugural speech was the subject of widespread negative media coverage, including in *The Age* newspaper and other mainstream publications. Copies of the articles I saw at the time are in **Annexure JP-3** to this affidavit. That reporting included:
- (a) in *The Age* with an article on 21 February 2023 titled, '*Moira Deeming uses first speech to slam equality 'taken to extremes'*'; and
 - (b) on news.com.au with an article on 22 February 2023 titled, '*Premier hits back at new MP's transgender comment*'.
31. On 22 February 2023, Mrs Deeming and I exchanged a number of text messages. A copy of screenshots of these text messages is **Annexure JP-4** to this affidavit. The text messages are as follows:

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- (a) at 1:06pm: *Hi John are you free to meet with me today?;*
- (b) at 1:08pm, I responded: *Sure thing. But can we do it at around 7:15?;*
- (c) at 1:08pm, Mrs Deeming replied: *Yep.*
32. At 7:14pm that evening I was waiting in my office in the Member's Annexe, the Legislative Assembly had risen, and I recall someone informed me that Mrs Deeming was out at dinner with other Members of Parliament. I sent her a message at 7:14pm: *I'm in my office Moira. Did you still want to meet? At 7:23pm she responded: It's ok I'm sorry.* A copy of screenshots of these text messages is **Annexure JP-5** to this affidavit.
33. By Thursday, 23 February 2023, there had been more negative publicity concerning Mrs Deeming's inaugural speech. Further, the fact that hundreds of documents from Mrs Deeming's Melton City Council email account were obtained and publicly released pursuant to a Freedom of Information request made by Sex Work Law Reform Victoria (**FOI documents**) was also the subject of negative publicity.
34. Mrs Deeming forewarned me about the FOI documents and their release. While I cannot recall precisely when she did so, based on my text messages with her, I believe it occurred in the late morning or early afternoon that day after I left the Chamber.
35. The text messages we exchanged on 23 February 2023 were as follows:
- (a) at 9:49am Mrs Deeming sent me: *If you know when you're free, I'm flexible today.*
- (b) at 9:51am I responded: *Just in the chamber will call you when I'm out.*
- (c) at 9:51am Mrs Deeming replied: *sure.*
- (d) at 1:42pm, Mrs Deeming sent me a series of texts with what now appear to be suggested talking points, in response to the expected lines of attack arising from the FOI documents.
- A copy of screenshots of these text messages is **Annexure JP-6** to this affidavit.
36. Later that day, I met with Mrs Deeming and Ms Georgie Crozier (**Georgie**), the Member for Southern Metropolitan Region and a member of the Party leadership team, in my office adjacent to the Opposition Party Room. I believe, but cannot now be sure, that the meeting was after question

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time but before a press conference that Georgie and I were scheduled to give in the Liberal Party Room at 3:15pm. I recall the meeting with Mrs Deeming beginning with me saying words to the effect that I was supposed to be going into a press conference to call for Minister Danny Pearson's resignation (over ministerial conflicts of interest we had been pursuing) but that instead, I would have to go in there and face questions about Mrs Deeming. I recall her reply was to the effect, well, I hope you're going to defend me. I recall feeling quite concerned that Mrs Deeming seemed to neither care about nor understand the damage and controversy her commentary was having on our ability to establish ourselves as a strong opposition.

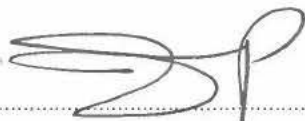
37. By way of explanation, I expected the FOI documents to generate negative attention in Victoria because, in substance, they showed the extent of Mrs Deeming's opposition to sex work and the transgender community while she was a councillor. Further, while I liked most of Mrs Deeming's inaugural speech, [REDACTED] the FOI documents, caused me to hold real concerns about the offence and hurt that Mrs Deeming's apparent views were causing to some people in Victoria. I was also concerned that Mrs Deeming was derailing our political agenda and harming our perception in the Victorian community as a credible alternative government.
38. As planned, I held a press conference that afternoon with Georgie where we spoke about the conduct of assistant treasurer Danny Pearson. However, shortly after I invited questions, as expected, the focus of the press conference shifted and I was asked a number of questions regarding Mrs Deeming, including whether she had my full support, whether I agreed with her views, whether she had met the standards the Victorian people deserve and expect, and why I had not immediately condemned her views [REDACTED]. During my answers I said that Mrs Deeming was a member of the Parliamentary Party and would remain so, reiterated my views and values, and refused to condemn Mrs Deeming. The transcript of that press conference is at **Annexure JP-7**.
39. My refusal to condemn Mrs Deeming and my comments about wanting to lead a party that is inclusive and a voice for everyone were widely reported at the time, for example, in the *Herald Sun* article titled 'John Pesutto throws support behind Liberal MP Moira Deeming after emails expose her extremist views' and in *The Guardian*. A copy of these articles is **Annexure JP-8** to this affidavit.
40. Later that afternoon, I had the following text message exchange with Mrs Deeming:
- (a) at 5:50pm, I wrote: *Are you around for a quick chat this afternoon? Just a bit of a debrief on today.*

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(b) at 6:15pm, Mrs Deeming replied: *There's nothing much to say. I'm heading home to the kids.*

A copy of the exchange of text messages with Mrs Deeming is **Annexure JP-9** to this affidavit.

41. In my experience it is highly unusual for a Member of Parliament, particularly a new one, to refuse to make time to meet with the Leader of the Party when requested to do so – particularly when that Member's conduct has generated such adverse media interest.
42. I cannot recall when we next spoke. However, at 12:25pm on 25 February 2023, I received a text message from Mrs Deeming with a screenshot of a tweet featuring some quotes from James Newbury MP apparently condemning some of Mrs Deeming's views and suggesting they are not fitting of a modern Victoria. I assume Mrs Deeming sent this to me as she was upset her views had apparently been criticised by a fellow Party member. However, I do not now specifically recall discussing this with her. A copy of this text message is **Annexure JP-10** to this affidavit.
43. This appears to be my last text message with Mrs Deeming. To the best of my recollection, this is the last time Mrs Deeming and I had any meaningful engagement prior to the events of the weekend of 18-19 March 2023. That was not because I made any conscious decision to stop communicating with Mrs Deeming. Further, at this point in time, I had not given any thought to and had no intention of asking the Party Room to discipline or expel Mrs Deeming from the Party, whether because of her views generally or the controversy following her inaugural speech or the release of the FOI documents.
44. However, after several months as Leader of the Party, it was apparent to me that Mrs Deeming's views on social and political issues (most notably, abortion and transgender related issues) were notorious, controversial and regarded as hateful by some, and she had a mixed reputation in the Parliament.
45. In my opinion, based on my experience as Leader of the Party (which caused me to mix with and meet a variety of people, including politicians and members of the broader community), while it was clear some people loved Mrs Deeming and shared her views on those issues (in my view, a minority), on the whole, in the circles in which I moved including the more mainstream parts of the community I was trying to attract to support the Party (in my view, the vast majority), Mrs Deeming had a bad reputation, particularly for giving succour to hateful and/or extreme social or political views. I know of no other person with such a bad reputation who has been allowed into the Party.

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46. I considered Mrs Deeming's presence in the Party was challenging and an overall negative in terms of winning votes. I was predominantly concerned that she was starting to occupy a lot of our media, was a focus point for Premier Andrews and Ministers in the Parliament and the media, and that there was likely to be further controversy we would need to answer and deal with. Despite this, I had never thought of asking the Party Room to discipline or expel Mrs Deeming until the events of 18-19 March 2023.

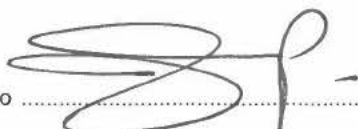
Neo-Nazi presence at Parliament House

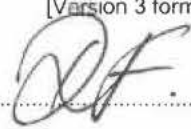
47. I do not have any specific recollection of seeing any of Mrs Deeming's social media publicising her intention to be involved in the "Let Women Speak" rally which was to be held on the steps of Parliament House on 18 March 2023 (**Rally**). Nor do I recall being aware before the Rally that Mrs Deeming intended to participate in the Rally; that the Rally would take place; what it was about or who the other organisers were.
48. I did not attend the Rally but am aware from media reporting and discussions with Mrs Deeming on 19 March 2023 that it took place as planned on the afternoon of 18 March 2023.
49. To the best of my recollection, I first learned of the Rally on the afternoon or evening of 18 March 2023, prior to attending the Victorian Multicultural Gala Dinner.
50. I became aware at some time on 18 March 2023 that David Southwick MP (**David**) and Brad Battin MP (**Brad**) had put out a press release regarding the Rally that afternoon. As a practical matter, my media team would have assisted David and Brad to put out the media release, and as a consequence I would most likely have been informed of the media release contemporaneously or shortly afterwards. In any event, I had learned of it before the Victorian Multicultural Gala Dinner.
51. The Victorian Multicultural Gala Dinner is an annual event, which is, by convention, apolitical. By convention, both the Premier and the Leader of the Opposition always attend and speak. That year, the dinner was held at the Melbourne Convention and Exhibition Centre. I attended with my wife and some other members of the Party, including David and Georgie.
52. I understand from the invitation it was scheduled to commence at 6pm. However, based on my briefing notes, I was not scheduled to enter until after 8pm or make my speech until around 9.30pm.
53. At 7:16pm, I received a text message from Ms Louise Staley (**Louise**), former Shadow Treasurer and my now Chief of Staff. Louise had sent me a link to an article in *The Australian* 'Anti trans

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speaker fans throw Nazi salute amid counter-protest', followed by two pictures, one of Mrs Deeming with a woman who I now know to be Ms Kellie-Jay Keen (**Ms Keen**), and one of neo-Nazis performing the Nazi salute. Louise then messaged *Moira Deeming at a rally with neo-Nazis today*. I responded: *This only gets worse from here. I don't even understand why she wants to be in the liberal party*. Louise then sent a response: *Yes. Other than its the only way for her to be elected. You need to consider expelling her from the Party room for consorting with nazis. You can't have that link and be elected to government*. I responded: *Agree*. A copy of our text message exchange is **Annexure JP-11** to this affidavit.

54. At 7:30pm and following I exchanged messages with David. Our exchange at that time was as follows:

(a) Me: *I think we might need to discuss Moira. Do we really think her misjudgment, and worse, won't keep hurting us? Nazis this time. What's next?*

(b) David, shortly thereafter: *Yep it's not great. Has Staley been onto you about it?*

(c) Me: *Yep*

(d) David: *She is onto me big time. It will be interesting how this plays out. She needs to get on the front foot with this early*

(e) Me: *We're just in the green room. Do you want to pop over for a quick chat. Andrews is running behind.*

A copy of our text message exchange is **Annexure JP-12** to this affidavit. My messages appear in blue.

55. David and I discussed the Rally and the fact that Mrs Deeming's apparent attendance was likely to hurt the Party. I recall David told me (likely that evening but possibly the following morning) words to the effect that he had spoken to Mrs Deeming about the Rally, including telling her that she needed to immediately distance herself from the Rally and the neo-Nazis who attended it.

56. At 9:14pm that evening, while still at the dinner, I received a text message from Matthew Guy (**Matthew**) to myself and David which stated: *Just letting you know that if you want an expulsion moved in Deeming, and no one else will do it, I will*. David responded: *Ironically we are at the multicultural dinner and she is not making it easy for us*. Matthew then responded: *You have this*

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solution in your back pocket if you want it. A copy of our text message exchange is **Annexure JP-13** to this affidavit.

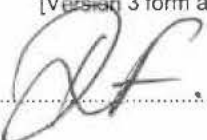
57. As David's message suggested, during the Multicultural Gala, the fact of what I then understood to be the neo-Nazis attendance at the Rally cast a pall over the evening, and Mrs Deeming's attendance at a rally at which neo-Nazis were also present was a topic of discussion which presented a difficulty for us.
58. Around 9.30pm, the then Premier Daniel Andrews and I gave our speeches. During his speech, Mr Andrews commented on the Rally and roundly condemned the presence of neo-Nazis. I spoke next and spoke 'off the cuff'. I recall speaking about my father, about Victoria's multicultural success, and finished my speech speaking about the Rally. I described the appearance of neo-Nazis on the steps of Parliament as an abomination and unacceptable. I made no comments regarding Mrs Deeming's presence at the Rally.
59. Following the dinner, at about 10:55pm I exchanged further messages with David, which form part of the chain of messages at **Annexure JP-12** to this affidavit.
60. By then, it was clear to me that the neo-Nazis attendance during the Rally would be a topic of enormous public and media interest in the days following.
61. I was also concerned that Mrs Deeming's involvement in and attendance at the Rally which the neo-Nazis had reportedly attended would also be a huge political issue for the Party. It was clear to me at that stage that there was going to be a perception, rightly or wrongly, of a link or association between the Party, through Mrs Deeming, and the events of the Rally, including the attendance of neo-Nazis. It was also clear to me that Mr Andrews would jump on that perception, and would attack the Party on that basis. By then, it was clear to me that other senior members of the Party were just as concerned, if not more so, about Mrs Deeming's conduct and associations and the potential effects on us as a Party.
62. However, at that stage, I did not know much about what had happened at the Rally or Mrs Deeming's involvement or association with the Rally or anything about the other organisers of the Rally. I do not recall even knowing at that time who Ms Keen or Ms Angie Jones (**Ms Jones**) were. Put simply, I was very concerned about what had happened but I was not planning on taking any action until I was able to learn more.

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Sunday, 19 March 2023

63. My usual practice on Sunday mornings is to read the newspapers. On Sundays, I receive the *Sunday Herald Sun* and *The Sunday Age*. I recall that both papers had articles relevant to the Rally. I have not been able to locate a hard copy of *The Age*, but a copy of a relevant article in the *Sunday Herald Sun* is at **Annexure JP-14** to this affidavit.
64. That morning I was travelling to a private Party function in Colac hosted by Mr Richard Riordan, which Georgie was also going to attend.
65. At 8:25am, I sent a text message to my then Chief of Staff Rodrigo Pintos-Lopez (**Rod**) indicating I had spoken to David about meeting with Mrs Deeming at 5pm that day. He indicated he could attend the meeting. I believe I spoke to Rod at around this time, and asked him to conduct some research on the Rally and what had happened at it. A copy of my text message to Rod is at **Annexure JP 15** to this affidavit.
66. Rod had only joined my office a week prior to the Rally. However, I knew from my investigations into him when I employed him as my Chief of Staff that he was very well educated, had a wealth of experience as a barrister, worked as legal counsel to Ted Baillieu when he was premier, and was a member of the Commonwealth Administrative Appeals Tribunal. We had also worked together when I was Senior Adviser, Industrial Relations, to then Premier Baillieu. Accordingly, I trusted him to be able to carefully investigate what had happened at the Rally and its organisers. I had confidence in his forensic capabilities.
67. At about 11am, I spoke with Georgie and asked her to arrange a meeting with Mrs Deeming and the Party Leadership Team, which comprised myself, David, Dr Matt Bach (**Matt**), and Georgie, (the **Leadership Team**) for 5pm, which she did. The purpose of this meeting was to hear from Mrs Deeming, as I had not yet spoken with her. I did not have a firm view about what would happen at the meeting, but recall that I was thinking through a range of possible options depending on what Mrs Deeming told us.
68. I also arranged for the Leadership Team to meet prior to our meeting with Mrs Deeming.
69. I returned to Melbourne from Colac at about 4 or 4.30pm and went straight to my office.
70. At about 4pm or 4:30pm in the afternoon, I spoke variously with Rod, Mr Nick Johnston (**Nick**), my head of communications, and the other members of the Leadership Team. Once everyone had

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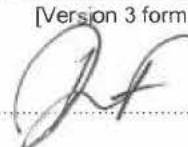
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arrived, Rod took us through what he had learned about the Rally, Mrs Deeming's response to the neo-Nazis' attendance at the Rally, and the other organisers, including Ms Keen and Ms Jones. I specifically recall Rod showing me:

- (a) that Ms Keen had, or once had, a social media profile picture of a Barbie doll wearing a Nazi uniform (**Nazi Barbie doll image**);
- (b) Ms Keen had previously tweeted 'Pridestapo' with an image of a Nazi eagle insignia and a swastika superimposed over a rainbow (**Pridestapo image**), which appeared to me to equate the expressions of LGBTIQA+ pride with the conduct of the Nazis and the Gestapo during World War II; and
- (c) that Ms Jones had posted a tweet shortly after the Rally stating 'Nazis and women want to get rid of paedo filth. Why don't you?' (**Jones Tweet**).

71. I was told by Rod that it only took a matter of minutes to locate this kind of material, which caused me to be troubled about what else might be out there if and when more extensive searches were to be conducted.

72. I recall asking Rod a question to the effect, are you confident about this? Is it solid? In response to which Rod said, absolutely.

73. As to the Rally, I recall that by this stage I knew:

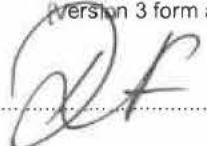
- (a) that Mrs Deeming was involved in the organisation and promotion of the Rally. I learned this from my discussions with Rod;
- (b) that the neo-Nazis who turned up at the Rally performed the Nazi salute on the steps of Victorian Parliament while holding a banner which read 'DESTROY PAEDO FREAKS'. I learned this from media reports and my discussions with Rod;
- (c) that it appeared that Mrs Deeming had failed to leave the Rally when the neo-Nazis arrived. I learned this from my discussions with David and Rod; and
- (d) following the Rally, a video was posted to YouTube in which Mrs Deeming, Ms Keen, Ms Katherine Deves (**Ms Deves**) and Ms Jones were celebrating the Rally while drinking champagne (**YouTube Video**). I do not specifically recall how I became aware of the

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YouTube Video, but I was likely informed on either the Saturday evening or the Sunday morning, and I watched it on Sunday.


74. I also understood from what David had told me that he had spoken to Mrs Deeming about the Rally before she participated in the YouTube Video and that he had told her that she needed to distance herself from the Rally and the neo-Nazis.
75. I was shocked and disappointed that Mrs Deeming, a member of the Liberal Party, appeared to consider the Rally to have been a success in circumstances where neo-Nazis were present at Parliament House doing a Nazi salute. I considered that most Victorians would find that conduct abhorrent. I did not think it was a time to be celebrating and I was dismayed that a member of the Party would think it appropriate to participate in such a video.
76. As I explain above at paragraph [6] and following, part of my conception of liberal philosophy is that people ought to be free to do what they want, and be who they are, subject to regulation of competing rights. Although the neo-Nazi presence was my most serious concern, the more I learned about the Rally, the more I also had concerns about the aims of the Rally and the "Let Women Speak" movement itself. I considered that the Party should not be participating in or condoning protests against specific people, and based on what I had seen I felt the Rally was a protest that maligned individuals who are part of the transgender community. Given the sensitivities I had explicitly spoken to Mrs Deeming about only weeks beforehand, I did not consider the Rally to be a civil or respectful expression of concern about laws and policy in this field. Rather, Mrs Deeming's involvement in the Rally and the YouTube Video appeared to me to be a rebuff of all the considerations about the Party's reputation and messaging that I had conveyed to Mrs Deeming in our discussions in February 2023.
77. I was also deeply concerned about the Jones Tweet, which I thought would be incredibly offensive to any member of the LGBTIQA+ community. It suggested that any member of that community was 'paedo filth'. Also, it appeared to align with the neo-Nazi sign referred to above at paragraph [73(b)].
78. However, I also recognised that I had not yet heard from Mrs Deeming, so was willing to reserve judgement on her involvement at that time, as it was my view that it was necessary to speak with Mrs Deeming to discuss what could be done and to potentially find a pathway out of the situation.
79. I had been reflecting on possible outcomes throughout the day. At the time, I considered those options included Mrs Deeming issuing a public statement distancing herself from the Rally,

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Mrs Deeming voluntarily resigning to become an independent, or bringing a motion to expel Mrs Deeming. The latter course I considered a last resort, and I hoped we could reach an amicable outcome with Mrs Deeming.

80. At 5:21pm I sent a text message to Nick with a draft statement for him to consider. I believe I had typed up parts of that statement in the "notes" function in my phone on the drive back from Colac. A part of that draft statement referred to Mrs Deeming resigning. At the time I considered Mrs Deeming resigning to be one of a number of possible outcomes of the meeting. The start and end of the statement focussed on condemning the actions of the neo-Nazis and restating the values of the Party under my leadership. My text messages to Nick that afternoon are at **Annexure JP-16** to this affidavit.
81. I do not recall if I sent that message before meeting with Mrs Deeming started (she was late), or in the course of that meeting.

Leadership Meeting with Mrs Deeming

82. At approximately 5pm or shortly thereafter, Georgie collected Mrs Deeming and escorted her to the Shadow Cabinet room. Present were the Leadership Team and Rod. The meeting went for about 2 hours.
83. I do not recall everything that was said at that meeting. However, I recall saying words to the effect of:
- (a) we're trying to win the next election;
 - (b) we want to focus on issues as a team and focus on the budget and cost of living;
 - (c) things like the rally are distracting us and taking us off message; and
 - (d) we need you to be part of the team.
84. Similar sentiments were expressed by other members of the Leadership Team.
85. I asked Mrs Deeming to explain to us what had taken place at the Rally, her connection with Ms Jones and Ms Keen, and why she had not left the Rally when the Nazi salute was performed.

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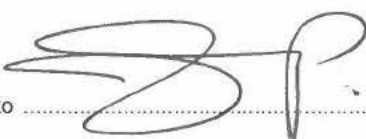
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86. I showed Mrs Deeming some of the research my office had conducted that day. I specifically recall Mrs Deeming being shown copies of the Nazi Barbie doll image, [REDACTED] and the Jones Tweet, and that I expressed concern about Mrs Deeming associating with people like Ms Keen and Ms Jones.
87. While we went around in circles and I do not recall everything that was said, I do recall that Mrs Deeming said, in substance, [REDACTED] you are misunderstanding [REDACTED] [REDACTED].
88. At another point in the meeting, Matt expressed the view that what Mrs Deeming was saying was simply not credible.
89. At different points of the meeting, other members of the Leadership Team said different things to Mrs Deeming, but I do not now recall precisely what was said. I recall Mrs Deeming said words to the effect that she was prepared to call out the Nazi presence at the Rally, but she stood by Ms Jones and Ms Keen, and was not going to say anything condemning them or expressing any disapproval of what they had done. I thought what we were asking Mrs Deeming to do was very reasonable – to call out and distance herself from Ms Keen and Ms Jones and their use of Nazi analogies in the Nazi Barbie doll image, the Pridestapo image and the Jones Tweet.
90. At some point during this meeting I said to Mrs Deeming, in substance, I think there are 3 options: (1) you can leave the Liberal Party and become an Independent MP, which may suit you better as it gives you complete freedom; (2) you can apologise for attending the Rally, and distance yourself from the speakers and other organisers of the Rally; or (3) we will have no choice but to move a motion to expel you from the Party.
91. Mrs Deeming's position at that meeting, which I took at face value and accepted, was that she did not know the neo-Nazis or that they planned to attend the Rally. However, I formed the view that Mrs Deeming failed to appreciate how offensive the neo-Nazi presence at the Rally was or the necessity of her unequivocally condemning that presence. I also considered she failed to appreciate the seriousness of her attendance and participation in the Rally and the YouTube Video, and the apparent association between herself and Ms Keen and Ms Jones. I also felt she did not understand the connection that would be drawn between the Party (through her attendance) and Ms Keen and Ms Jones. Mrs Deeming's refusal to even call out the images Ms Keen and Ms Jones had used prompted me to think that if she were not prepared to do something so reasonable, she would expose the Party to more serious and potentially damaging scenarios in the future.

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92. I then went into a separate room with David, Georgie, Matt and Rod to have a private discussion about how we planned to proceed. This private discussion went for about 10-15 minutes. I do not recall precisely what was said during this meeting. I do recall at one point Matt said words to the effect that Mrs Deeming's explanations were not credible, and he did not believe her assurances that she would conduct herself as part of the team. I recall each of Matt, Georgie, David and I agreed that Mrs Deeming was not serious about calling out the conduct of the speakers or organisers of the Rally. Accordingly, we unanimously decided that we would move to expel Mrs Deeming from the Party.
93. When we went back into the joint meeting with Mrs Deeming, I said to her in substance that we just don't think you accept or understand that what has been done is wrong, or that you are prepared to do what's needed to protect the Party. I said we were therefore going to bring a motion to expel you from the Party.
94. I don't recall Mrs Deeming saying anything substantial in response; she got up and left the meeting.
95. I firmly believe that if Mrs Deeming had shown any insight and simply agreed to call out or condemn the Nazi Barbie doll image, [REDACTED] and the Jones Tweet, in addition to calling out the neo-Nazi presence which I understood she was prepared to do, we would not have considered that we needed to move a motion to expel her.
96. Mrs Deeming has alleged that my 'true purpose' was to expel her for her advocacy of 'sex-based rights'. That is not true. While I do not share those views, and hold concerns about how those views might impact upon the community's perception of the mainstream and welcoming Party I want to lead, they were views Mrs Deeming was entitled to hold. Further, as noted above, only weeks prior to the Rally, I had refused to publicly condemn her for expressing those views.

The Media Release

97. Following the meeting with Mrs Deeming and the Leadership Team, I started to prepare an email to my colleagues regarding our decision to move a motion to expel Mrs Deeming from the Party; and I asked Nick to finalise a media release that said that we intended to move a motion to expel Mrs Deeming.
98. I also worked on an email to my colleagues with some of the others who were present.

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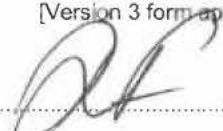
99. Both documents were based upon the draft statement I had prepared and sent to Nick earlier, discussed at paragraph [80] above. Ultimately, the email and the Media Release were very nearly identical.
100. They were very important documents to me. I was conscious of the gravity of the decision to seek to expel Mrs Deeming, but the statements were not simply about Mrs Deeming, they were statements of my values, and a testament to what I believed in. It was also the most momentous decision I had made as Party leader, and I needed a strong statement to be the platform of the decision.
101. At 8:36pm that evening, I sent an email to my parliamentary colleagues giving notice of the Leadership Team's intention to expel Deeming from the Party, which was in similar terms to the Media Release, save that it concluded with, 'Tomorrow I will circulate the motion and provide further details regarding the process'. A copy of the email is **Annexure JP-17** to this affidavit.
102. Shortly afterwards, I settled and approved the publication of the Media Release by my staff. I do not know what time it was uploaded to the websites referred to in the Statement of Claim, but I am aware that an email from Alex Woff circulating the Media Release was sent at 8:42pm that evening.
103. Before or around the time the Media Release was published, the Leadership Team divided a list of members of the Party to call and provide them notice of our intention to expel Mrs Deeming. We felt it was important to call as well as email as this was a serious step to take and we wanted to answer any questions that the other members of the Party might have. I cannot recall now the names of all of the persons who I called, but I do recall generally that the calls I made were fast and short as we were trying to contact as many colleagues as quickly as we could.
104. By the Media Release, I intended to convey, believed to be true, and it was my opinion that Mrs Deeming, by reason of having been involved in organising, promoting and participating in, and attending, a rally with speakers and other organisers who themselves have been publicly associated with far right-wing extremist groups including neo-Nazi activists, is not a fit and proper person to be a member of the Party under my leadership. I did not intend to convey any of the meanings pleaded in the Statement of Claim concerning the Media Release.
105. I was deeply concerned that Mrs Deeming's conduct could bring the Party and the Parliament into disrepute.

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106. I appreciated that moving to expel a member of the Party was a serious step. My decision to move the motion was one of the hardest I have had to make in public life. The purpose of the Media Release was to inform the public as to why we were proposing to take this significant step. The Victorian public has a right to know why the Leadership Team was proposing to expel from the Party a Member of Parliament who had only recently been elected as a Liberal.
107. I also believed that it was important that I unequivocally condemn the neo-Nazis' actions (which I did in lines 1 to 4 of the version of the Media Release at Schedule A of the Statement of Claim), to explain to the public why Mrs Deeming's participation at the Rally, and her associations with Ms Keen and Ms Jones, was antithetical to the Party's values under my leadership (lines 5 to 11), and to reiterate to the public what those values were and would be under my leadership (lines 12 to 18).
108. Once the decision had been taken and Mrs Deeming had been informed of our intention, I considered it was important to communicate this decision to my colleagues and to the public quickly.
109. There were several reasons, including my view, based on my experience in public life, of the inevitability that our intention to move to expel Mrs Deeming (as notified in my email to our colleagues) would leak to the media.
110. Further, it was clear to me by Sunday evening that the Rally, the neo-Nazis' presence and actions during the Rally, and the fact that a member of the Party was at that Rally and had not unequivocally condemned the neo-Nazis or distanced herself from her association with the Rally and its organisers, would be a major news story if not *the* story for every masthead and network in the coming days. By Sunday, my perception was that the Rally had already become notorious and captured the public's attention.
111. As Leader of the Opposition, I am the alternative premier. I believed I needed to address public concerns and explain the decision to seek to expel an elected, first term, Member of Parliament from the Party. I did not believe that staying silent was an option, and I believed I needed to address the issue to retain credibility. At that stage, I had been the Leader of the Opposition for a little over 3 months. I was a new leader, seeking to project a modern and inclusive Liberal Party. I considered this to be the first major test of my leadership, and the public would be watching to see how we as a party responded to the presence of Nazis on the very steps of Parliament. This was my first chance as leader to prove my beliefs about the Liberal Party being inclusive. If I failed to act, the story would become that I failed to act. I was absolutely convinced that bringing the Expulsion

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Motion was the right thing to do, but I knew that I needed to explain it to the Victorian public. I also thought it was important to explain it to the public because by seeking to expel Mrs Deeming, I was effectively seeking to overturn an element of an election result.

112. It was important to me that I was proactive in explaining the motion to expel to the Victorian public, so that it was not mischaracterised or misrepresented by others. At the time, Daniel Andrews was the Premier of Victoria. I considered him an able politician who should not be underestimated when it came to taking political advantage of matters such as this. I was concerned that if I did not take action, and quickly, he would seek to link the rest of the Party to the neo-Nazis on the steps of Parliament, and he would do so using Mrs Deeming's presence at the Rally and her public association with Ms Keen and Ms Jones. Mrs Deeming had already been the subject of controversy and comment from Mr Andrews, who described her views as 'hateful' when she was preselected in July 2022. Under Mr Andrews, it appeared to me, the Government had taken a number of opportunities in the Parliament, especially through Ministers' statements during question time, to focus on the issues Mrs Deeming was drawing us into.
113. I was very concerned that Mrs Deeming's conduct would create an impression of an association between the Party and far-right extremism or doctrines which supported vilification and hatred of members of our community. I was very concerned that members of our community, in particular transgender people and the LGBTIQA+ community more broadly, would be alienated and distressed by the events of the Rally, and by Mrs Deeming's conduct at and after the Rally (including her failure to act), and by her public associations with Ms Keen and Ms Jones. I wanted to assure members of the LGBTIQA+ community that the Party was not against them. I also wanted to assure people from faith communities that the Party was not against them either.

Monday 20 March 2023

114. For the reasons I explain above at paragraphs [108]–[113] I expected to be met with numerous interview requests and requests for comments on the Monday morning following the Media Release, and considered such interviews to be necessary for me to explain my position, as Leader of the Opposition, on events that had taken place that weekend regarding the Rally, the Leadership Team's decision to move to expel Mrs Deeming from the Party and my values as leader of the Party.
115. Requests for interviews typically go through my head of communications (who was at the time, Nick) or another member of my office's media team. I cannot recall if this is what happened in

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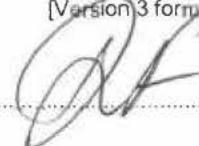
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relation to the 3AW Interview and the ABC Interview, but I think it is likely that was the case. I recall instructing my team to accept all media or interview requests. That was because I considered it important to proactively explain my reasons for moving a motion to expel Mrs Deeming, particularly as I anticipated that the issues would be highly contested and intensely debated.

116. In the meantime, on my instructions, Rod led the drafting of the Expulsion Motion to ensure compliance with the Party Constitution. I do not recall if I gave him the instruction to do so the previous evening on 19 March 2023, or on the morning of 20 March 2023. However, I recall that occupied him for much of the morning on 20 March 2023.

117. I considered Rod to be the best person to do this because of his relevant experience, including as a barrister.

3AW Interview

118. At around 8:55am, I participated in the 3AW Interview with Mr Neil Mitchell. 3AW is a Melbourne based commercial radio station. Mr Mitchell had hosted his morning show for many years and had the largest audience amongst Melbourne's morning radio shows. For that reason, I wanted to participate in an interview with Mr Mitchell.

119. The 3AW Interview was live on air and, given the involvement of Mr Mitchell as interviewer, I could not control everything that was said during the interview. However, in the 3AW Interview I intended to reiterate the matters that had been stated in the Media Release and intended to convey, believed to be true, and it was my opinion, that Mrs Deeming:

(a) by reason of having helped to organise and promote a protest rally and associating with persons with known links to Nazis, Nazi sympathisers, far-right extremists and/or white supremacists, is not a fit and proper person to be a member of the Party under my leadership; and

(b) by reason of not having left a protest rally that she had helped to organise and promote when neo-Nazis turned up, is not a fit and proper person to be a member of the Party under my leadership.


120. I did not intend to convey any of the imputations pleaded in the Statement of Claim concerning the 3AW Interview.

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121. That evening I was informed by my staff that I had mis-spoken during the course of the 3AW Interview at lines 18-19. After considering the best response, I did not put out a statement clarifying that matter as I considered doing so would only draw attention to a clear but minor misstatement, which did not affect any of the opinions I expressed or the steps that we intended to take. Instead, I resolved to take more care with my words later that week. A copy of a text message I received from Xavier Boffa is at **Annexure JP-18** to this affidavit.

ABC Interview

122. At around 9:39am that same morning, I participated in the ABC Interview with Mr Michael Rowland.

123. Like the 3AW Interview, the ABC Interview was live on air and, given the involvement of an interviewer, I could not control everything that was said during the interview. However, in the ABC Interview, I intended to reiterate the matters that had been stated in the Media Release and intended to convey, believed to be true, and it was my opinion that Mrs Deeming, by reason of having attended and been actively involved in the organisation and promotion of a protest on the steps of the Victorian Parliament at which there were speakers with known links to neo-Nazis and white supremacists, is not a fit and proper person to be a member of the Party under my leadership.

124. After Shadow Cabinet (which began at 11 am), I held a press conference as there was intense media interest in the motion I had moved. Like in the 3AW Interview and ABC Interview, I could not pre-plan or control everything that was said because I was prepared to answer any legitimate questions. However, in the press conference, I again intended to reiterate the matters that had been stated in the Media Release and intended to convey, believed to be true, and it was my opinion that Mrs Deeming:

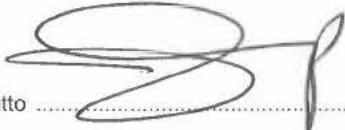
- (a) by reason of having worked with organisers of a rally with known and established links with people who have Nazi sympathies and who promote white supremacist and ethno-fascist views, is not a fit and proper person to be a member of the Party under my leadership;
- (b) by reason of not having left a protest rally that she had helped to organise when neo-Nazis arrived, and not immediately disowning or disassociating from them, is not a fit and proper person to be a member of the Party under my leadership;
- (c) by celebrating her involvement in a protest rally, which she helped to organise with people who have shared platforms and viewpoints with people who promote Nazi views or

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sympathies, and which was attended by neo-Nazis, is not a fit and proper person to be a member of the Party under my leadership;

- (d) knowingly associated with people who share a platform with neo-Nazis who peddle hate and division and attack people for who they are;
- (e) had so conducted herself in staying at a rally attended by neo-Nazis and then celebrating with the key speakers of the rally who had neo-Nazi sympathies after ugly scenes had occurred on the steps of Parliament so as to warrant her immediate expulsion from the Party; and
- (f) had so conducted herself before, during and after a rally at Parliament in associating herself with the key speakers who have shared platforms and endorsed viewpoints of neo-Nazis so as to warrant her immediate expulsion from the Party.

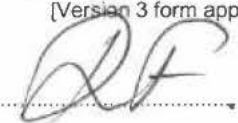
Mrs Deeming's press release

- 125. At 4:42pm on 20 March 2023, Mrs Deeming published what she described as a "PRESS RELEASE" on Twitter (now known as X), in which she said (amongst other things) "*Let me clear (sic) – I have done nothing wrong. Those who organised the Let Women Speak event on the weekend have done nothing wrong*".
- 126. I became aware of this Tweet almost immediately, though I do not recall how. My reaction upon reading the post was that Mrs Deeming did not appear to dispute the veracity of any of the underlying facts that we had presented to her on the Sunday, which by then were being compiled in the Expulsion Motion and Dossier. I also noticed that Mrs Deeming's press release expressly accepted that neo-Nazis had "*gate-crashed the Let Women Speak (LWS) event*" – the Rally. I had always believed and understood the neo-Nazis attended to support the Rally. At the time, I took Mrs Deeming at her word that the neo-Nazis had not been invited and had 'gate crashed' the Rally.
- 127. Mrs Deeming's Tweet fortified the view that I (and the Leadership Team) had that Mrs Deeming did not appreciate the hurt and damage she was causing and that we would need to prosecute our case for her expulsion.

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The Expulsion Motion and Dossier


128. As mentioned above, Rod had drafted the Expulsion Motion and Dossier that day, while I did interviews, held a press conference and attended Shadow Cabinet and other duties.
129. The Expulsion Motion and Dossier were finalised that afternoon.
130. Ultimately, it was reviewed and signed by me and the other members of the Leadership Team.
131. Although my staff (particularly Rod) had the responsibility for putting the Expulsion Motion and Dossier together, I carefully reviewed and approved it before signing. I cannot recall making any changes, though if I did, they were not substantial. I considered it appropriate for the purpose for which it was prepared – namely, to comply with the Party Constitution and to give our colleagues the information and evidence they needed in order to decide whether to support the motion the Leadership Team were bringing to expel Mrs Deeming. In particular, as a lawyer, I felt we needed particulars to support the motion we were bringing. I was also aware that there was a real possibility the document would be leaked, and felt it needed to be carefully worded. I had no reason to disbelieve any of the facts stated in the Expulsion Motion and Dossier.
132. In the Expulsion Motion and Dossier, I intended to convey, believed to be true, and it was my opinion that Mrs Deeming:
- (a) conducted herself in a manner likely to bring discredit on the Victorian Parliament or the Party, by organising, promoting and attending a rally where Ms Keen was the principal speaker, in circumstances where Ms Keen was known to be publicly associated with far right-wing extremist groups including neo-Nazi activists;
 - (b) conducted herself in a manner likely to bring discredit on the Victorian Parliament or the Party, by meeting with and publishing a video with Ms Keen, Ms Deves and Ms Jones;
 - (c) had so conducted herself on 18 March 2023 in relation to a public rally that it warranted her expulsion from the Party;
 - (d) had so conducted herself in associating with neo-Nazi activists on 18 March 2023 that it warranted her expulsion from the Party;

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- (e) conducted activities in a manner likely to bring discredit on the Victorian Parliament or the Party by organising, promoting and attending a rally on 18 March 2023; and
 - (f) conducted activities in a manner likely to bring discredit on the Victorian Parliament or the Party by publicly associating with neo-Nazi activists on 18 March 2023.
133. At 5:42pm, I served the Expulsion Motion on Mrs Deeming via email, and I copied Georgie, David and Matt. A copy of the email and the letter serving the notice of motion is **Annexure JP-19** to this affidavit.
134. At 6:01pm, I sent an email to my parliamentary colleagues giving notice of a party room meeting to be held at 10am on 27 March 2023, attaching the Expulsion Motion. A copy of my email to my parliamentary colleagues is **Annexure JP-20** to this affidavit.

Events later in the evening

135. At approximately 6pm that evening, I had an interview with Ms Peta Credlin on Sky News. I was conscious of how "hot" the story was throughout the day. I felt the more public interest there was in the story, the more I needed to be publicly explaining my, and the Party's, position.
136. During that interview, I again sought to make it clear that I was not taking this action because of Mrs Deeming's views on transgender issues or women's rights, or suggesting that Mrs Deeming was associating with or sympathising with neo-Nazis; but rather because of her associations with organisers who have shared platforms with people who have expressed Nazi sympathies or white supremacist views, or who had said things that were highly offensive. For example:
- (a) I accepted that Ms Jones did not have any neo-Nazi sympathies but referenced the Jones Tweet and invited viewers to make their own judgement as to whether it was appropriate for any Member of Parliament to organise events with people who say things like that; and
 - (b) I invited viewers to look online and make up their own judgements about Posie Parker (i.e., Ms Keen).
137. During the interview, Ms Credlin played a video of Ms Keen stating these were all false and baseless allegations taken straight from her Wikipedia page. That was not correct. As explained above, the materials which informed our decision which made their way into the Expulsion Motion and Dossier were carefully sourced and carefully checked by my staff, including Rod, who had explained his

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research process to us. Towards the end of the interview, Ms Credlin pressed me on whether the Expulsion Motion and Dossier would be released to the public. I said I would consider it but I wanted to give Mrs Deeming due process and had to consider that issue, including conventions, carefully. Ms Credlin's line of inquiry did not play into my decision to release the Expulsion Motion and Dossier.

138. Shortly after that interview, I became aware that the Expulsion Motion and Dossier had been leaked and republished in part in an article posted on the website of *The Age* newspaper, although I cannot now recall how I became aware of that.
139. I was not in any way involved in nor did I have any prior knowledge of any intention for the Expulsion Motion and Dossier to be leaked to *The Age*. I am confident, having made enquiries, that neither my office nor the Leadership Team leaked the Expulsion Motion and Dossier to *The Age* – if we wanted it to have been published more broadly at that time, we would have done so.
140. After parts of the Expulsion Motion and Dossier had been leaked, my office received a number of media inquiries regarding the Expulsion Motion and Dossier.
141. I considered it to be potentially very damaging to the standing of the Party and potentially distressing to the electorate and sub-sets of the electorate to see extracts of parts of the document without further context. In addition, I thought it was inappropriate for only one media outlet to have a copy of the Expulsion Motion and Dossier. I was then of the view that if one media outlet already had the Expulsion Motion and Dossier, then others could have them too. Furthermore, I thought the public needed to understand why the Expulsion Motion was being brought, especially as I intend to lead the Party to be a party of government. Accordingly, I considered it was in the public interest that my office provide a copy of the entire Expulsion Motion and Dossier to the media in response to those media requests. I particularly thought there was a public interest in the Expulsion Motion and Dossier being made available to constituents of the Western Metropolitan Region, as it explained why the Leadership Team was trying to remove Mrs Deeming from the Party. We were making a number of allegations regarding Mrs Deeming, and the documents explained those allegations.
142. Aside from sending the Expulsion Motion and Dossier to Mrs Deeming and my colleagues, I do not recall personally providing it to anyone else, but I authorised my staff to do so in response to requests and understand that they did.

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Party Room meeting on 21 March 2023

143. On 21 March 2023, a regularly scheduled Party Room meeting took place. The Expulsion Motion and Dossier were discussed at that meeting. The Member for Polwarth, Richard Riordan, moved a motion to delay consideration of the Expulsion Motion scheduled for the following Monday (27 March 2023) to a future date. A copy of the minutes of this meeting appears in **Annexure JP-21** to this affidavit.
144. I recall that during that meeting, Mrs Deeming spoke while flipping through a copy of the Expulsion Motion and Dossier, explaining away the contents as she did so. While I do not remember all that she said, I specifically recall that she described the Nazi Barbie doll image as 'hilarious'. I was shocked by this. Her "PRESS RELEASE" the day prior and her conduct at that meeting reinforced my impression that she was not taking the Expulsion Motion, or our concerns about her conduct and associations, seriously. Mr Riordan's motion to delay consideration did not pass.

The lead up to the 27 March Party Room Meeting

145. As the week progressed, the Rally and Mrs Deeming's participation in the Rally continued to be a major news story. I continued to speak publicly, doing as much as I could to keep the public informed.
146. Internally, I had countless discussions with my colleagues about the Rally and Mrs Deeming. I also received inquiries from federal Liberal politicians wanting to know what was going on. It was a week of constant lobbying and discussion.

26 March 2023

147. On 26 March 2023 David invited me to attend a meeting at the Melbourne Holocaust Museum, which I did later that morning.
148. I recall there were approximately 8-10 people at the meeting. I recall that David, Daniel Aghion KC, then President of the Jewish Community Council of Victoria (**JCCV**), Dr Andre Oboler, a former President of the JCCV, and a holocaust survivor, Joe Szwarcberg, were present.
149. While I do not recall everything that was said at that meeting, I specifically recall Mr Szwarcberg taking my hand and saying to me, of the neo-Nazis on Parliament steps, 'Please don't let this happen again', and I recall replying, 'We won't let that happen'. It was a very emotional moment

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and a moving meeting. It reiterated to me that what had happened at the Rally seriously scared members of our community, particularly the Jewish community.

150. At about 2:51pm on 26 March 2023, Mrs Deeming sent an email to parliamentary colleagues urging them to vote against the motion to expel her from the Party. However, the email did not condemn the organisers of the Rally. A copy of Mrs Deeming's email is **Annexure JP-22** to this affidavit.

27 March 2023

151. At 6:29am on 27 March 2023, Mrs Deeming sent another email to parliamentary colleagues with an attached Microsoft Word document, which purported to be a "response to the dossier", which she stated had been prepared "with my legal team". A copy of Mrs Deeming's email to parliamentary colleagues, and the attached Microsoft Word document response, is **Annexure JP-23** to this affidavit.

152. Mrs Deeming's response was the first time she unreservedly condemned Ms Keen's "poor distasteful jokes", the Jones Tweet and the various other uses of Nazi and Hitler analogies. While Mrs Deeming had made some concessions in her email and condemned some of the conduct of the other organisers of the Rally, at that time, I considered her response and her belated acknowledgment that her attendance and participation in the Rally was an "error of judgment" was a last ditch and desperate attempt to avoid expulsion. I did not consider it to be genuine and still did not believe that Mrs Deeming was taking the issues we had raised with her seriously or that she would act as a team player. I felt that it was 'too little, too late'. I believed that if Mrs Deeming had said, or agreed to say, these matters publicly on 19 March 2023, we could have worked through the situation and that would likely have been enough to satisfy me that expulsion or other disciplinary action was not required.

153. I discussed Mrs Deeming's response with the Leadership Team. While I do not recall specifically what we said during that discussion, I recall that they generally agreed with my views, and as a result our position regarding the Expulsion Motion remained unchanged.

27 March 2023 – Party Room Meeting


154. At 10am on 27 March 2023, a party room meeting was held (**Party Room Meeting**). The meeting ran for approximately 2 hours with 25 members being assigned speaking time. A copy of the minutes of this meeting appears in **Annexure JP-24** to this affidavit.

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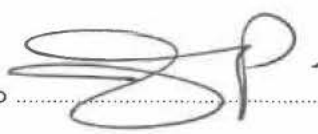
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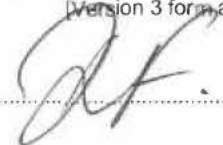
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- 155. The Party Room Meeting was called to order, and I explained the ballot. An absolute majority of 16 was required for the Expulsion Motion to be passed.
- 156. In my assigned speaking time, I moved the motion and spoke to it. I said words to the effect that the Party needed to be a party that appealed to all Victorians.
- 157. It was an emotional and heavily charged meeting. The Expulsion Motion was serious, and I believe it weighed heavily on those who supported it, including myself.
- 158. Mrs Deeming was the last person to speak. She made a personal statement which included reference to being sexually abused and raped earlier in her life. A number of members present became emotional and were in tears following Mrs Deeming's statement.
- 159. It was a tense moment. I felt it was not appropriate for us to seek immediately to expel a young woman who had told us she had been raped and began turning my mind to a lesser sanction than expulsion.
- 160. I suggested the Party Room Meeting be adjourned before we reached the point of putting the Expulsion Motion to the vote. I spoke with Mr Kim Wells and David. I said words to the effect of, we have to try to resolve this and find an alternative, let's look at suspension. Mr Wells spoke to Mrs Deeming and acted as the conduit between her, myself and David. Mr Wells then went to speak to Mrs Deeming, who was in a different part of the room. He then returned to me and David and proposed a 6-month suspension. I responded to the effect that 6 months was not acceptable, but that I would accept a 9-month suspension and a statement. Mr Wells then spoke to Mrs Deeming and I understood he conveyed that proposal.
- 161. I understood, as a result of the matters described in the previous paragraph, that there was a common understanding that what would be put to the Party Room was that Mrs Deeming would face a 9-month suspension effective immediately and there would be a joint statement, though the minimum requirements of such a statement were not discussed. By 'joint statement', I meant a statement that would be jointly prepared – I wanted to be able to 'hold the pen' to make sure Mrs Deeming said what I felt she needed to say. I never contemplated, and never would have, appeared on a joint media release with Mrs Deeming in relation to her statement about her involvement at the Rally.

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162. The Party Room Meeting was then called back to order. I again spoke and said a position had been reached that we can all embrace. I explained that the revised motion would see Mrs Deeming suspended from the Party for 9 months, that a joint statement would be issued, with a statement making clear that no one was accusing Mrs Deeming of being a Nazi or Nazi sympathiser. I then put the revised motion to the room. It was accepted without dissent. The meeting concluded at about midday. I recall there being palpable relief when the meeting concluded. Immediately after the meeting I recall that I informed the press that were waiting outside that I would do a press conference shortly.
163. A short time later, after a discussion amongst the Leadership Team and some of my senior staff who I informed what had happened in the Party Room, I held a press conference together with the other members of the Leadership Team.
164. At the time, I considered that it would have been completely inappropriate for me to say in that press conference that a significant reason why we agreed not to push ahead with the motion to expel Mrs Deeming was her disclosure in the Party Room meeting of abuse and rape. I did not consider it to be my information to provide to anyone outside of the Party Room. For that reason, I referred to Mrs Deeming having made important concessions in having 'condemned' conduct I wanted condemned. When saying that, I was referring to her lawyers' response attached to her email of 6:29am that morning.
165. At about 7:07pm that evening, Mr Alex Woff, one of my media advisers sent Mrs Deeming a final statement for her approval via WhatsApp, in response to which Mrs Deeming said, "Yep great". A copy of this WhatsApp message exchange is **Annexure JP-25** to this affidavit. I cannot specifically recall how I was informed of this, but it was likely that night in general discussions with Nick and Rod.
166. At 7:08pm, a statement was published by my office in Mrs Deeming's name in the form agreed by Mrs Deeming. The reason it was published by my office is because individual members of the Party do not maintain their own media databases – it is centrally managed via the Leader's office. A copy of the final statement published on behalf of Mrs Deeming is **Annexure JP-26** to this affidavit.
167. That evening I was interviewed by Sarah Ferguson for the 7.30 Report. Shortly before the interview Ms Ferguson showed me a tweet posted by Mrs Deeming at 5:25pm that day which stated, "Don't worry, I never condemned you, or KD [Ms Deves] or KJ [Ms Keen]" in reply to a tweet by Ms Jones.

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John Pesutto



..... Witness



I do not recall if I had seen that tweet before being shown it by Ms Ferguson. A copy of that tweet is **Annexure JP-27** to this affidavit.

168. I found Mrs Deeming's conduct frustrating and strange, and considered her tweet was in direct contradiction to the response she had provided at 6:29am that morning, and also to the statement she had agreed to as explained in paragraph [165] above. I was also deeply disappointed as I felt that by that tweet Mrs Deeming was 'thumbing her nose' at the party room outcome, in circumstances where she was effectively on probation with the Party. I considered that Mrs Deeming did not understand or appreciate that she had been seriously sanctioned, and was lucky to have only been suspended.

Events following the Party Room Meeting

169. At 4:55pm on 28 March 2023 and 5:16pm on 9 April 2023, I received emails from Mrs Deeming regarding the suspension motion and minutes of the Party Room Meeting. A copy of Mrs Deeming's emails appears in **Annexure JP-28** to this affidavit.

170. On 17 April 2023, it was brought to my attention that Mrs Deeming had tweeted a promotional video regarding her upcoming appearance on Sky News Australia using the Hashtag #LetWomenSpeak. That interview was later released by Sky News Australia on 18 April 2023. I do not recall how this video was brought to my attention.


171. At 6:45am on 4 May 2023, I received an email from Mrs Deeming stating that she would instruct her lawyers to commence legal proceedings against me if she was not exonerated by 2pm that day. A copy of this email from Mrs Deeming threatening to commence legal proceedings is **Annexure JP-29** to this affidavit.

172. At 11:30am on 4 May 2023 I gave a press conference. While I have not been able to locate a transcript of this press conference it was widely reported at the time that my statements at that press conference included "The outcome for the party room meeting on the 27th of March was very clear. It was based on a dossier which formed the basis of the motion. The party room overwhelmingly accepted the outcome of the meeting which was a nine month suspension, statement to be prepared jointly which was in fact done on the day and then confirmation publicly, which was done on many occasions... which nothing on the dossier ever accused Moira Deeming of being a Nazi or herself having Nazi sympathy. Those things have been done." Relevant parts of that statement were widely reported, including in *The Australian* titled "*Moira Deeming sets John*

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Pesutto a legal deadline to withdraw "Nazi smear", in ABC News titled "Exiled MP Moira Deeming tells Opposition Leader John Pesutto she is taking legal action over her suspension", and in Sky News titled "Victorian MP Moira Deeming threatens legal action against John Pesutto to make it clear she is not a Nazi or Nazi sympathiser". Copies of these articles are at **Annexure JP-30** to this affidavit.

173. At 3:28pm on 4 May 2023, my parliamentary colleagues and I received an email from Mrs Deeming stating that she had advised her lawyers to prepare a legal challenge to her suspension. A copy of this email from Mrs Deeming is **Annexure JP-31** to this affidavit.

6 May 2023


174. At about 11:13am on 6 May 2023, Mrs Deeming published a statement via Twitter (now known as X) in which she relevantly said that she had, "never once considered suing the Liberal Party, and reports that I have, or had planned to do so, are false". I observed at the time that this statement was contrary to what Mrs Deeming had said only two days earlier in her email to members of the Party. To my observation, the statement by Mrs Deeming was the subject of much discussion among members of the Party. A copy of Mrs Deeming's statement is **Annexure JP-32** to this affidavit.
175. At 3:53pm on 6 May 2023, I was copied into an email from Mr James Newbury to Dr Renee Heath – then Parliamentary Secretary – requesting a Special Meeting of the Party be held on 12 May 2023, and giving notice of an intention to seek to move a motion at that meeting '[t]hat the Victorian Parliamentary Liberal Party expels Moira Deeming'. The email stated the reason for that motion was 'that Moira Deeming has engaged in conduct in violation of Clause 57, bringing discredit on the Parliamentary Party'. The email was signed, and I understood that motion was to be moved, by Mr Newbury, Matthew, Ms Cindy McLeish, Ms Roma Britnell and Wayne Farnham.
176. At 4:10pm, I forwarded Mr Newbury's email to my parliamentary colleagues advising I had received the notice of motion in that email, and that a Special Party Meeting would be held at 9:30am on 12 May 2023. A copy of the emails from Mr Newbury and myself are **Annexure JP-33** to this affidavit.
177. Mrs Deeming alleges that I accepted an 'unconstitutional notice of motion to expel'. My recollection is that the basis upon which the notice was said to be unconstitutional is that it was not physically signed by 5 members, as it was an email, and that the grounds for expulsion had not been sufficiently stated. I cannot now recall how or by whom I was informed of this.

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178. At 3:32pm on 9 May 2023, Mrs Deeming sent an email to me, Dr Heath, Mr Newbury, Ms Britnell, Ms McLeish and Mr Farnham stating, "I have notified the Leadership and the Party President that I wouldn't pursue [legal proceedings] any further." A copy of this email from Mrs Deeming is **Annexure JP-34** to this affidavit.
179. At 9:47am on Thursday, 11 May 2023 I was served with a concerns notice on behalf of Mrs Deeming. Later that day Mrs Deeming sent an email to all parliamentary colleagues stating that she had decided to decline to attend the Special Meeting of the Party on 12 May 2023. A copy of concerns notice is **Annexure JP-35** to this affidavit.
180. On 12 May 2023, a Special Meeting of the Party was held. The resolution to expel Mrs Deeming from the Party was successful by a vote of 19 to 11.

General

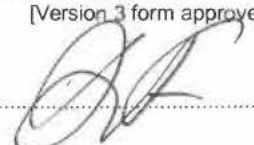
181. I do not believe, and have never believed, to be true the matters said by Mrs Deeming to be conveyed in the Statement of Claim at paragraphs 5.1–5.23; 10.1–10.4; 14.1–14.24; 19.1–19.5; 19.9–19.10; and 24.5–24.6.
182. I have publicly and unequivocally stated that I do not believe Mrs Deeming to be a neo-Nazi, a white supremacist, or anything of the kind and have always sought to distinguish Mrs Deeming from the neo-Nazis who attended during the Rally, and Ms Keen and Ms Jones, on the following occasions:
- (a) in the Media Release;
 - (b) in the 3AW Interview;
 - (c) in the press conference on 20 March 2023;
 - (d) in my interview with Ms Credlin of Sky News on 20 March 2023;
 - (e) during the press conference I gave on 27 March 2023;
 - (f) during a press conference I gave on 4 May 2023; and
 - (g) in a statement I gave on 20 November 2023, a copy of which is **Annexure JP-36** to this affidavit.

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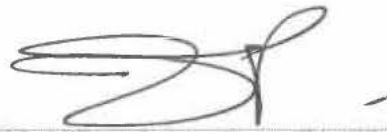
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John Pesutto 

 Witness

Affirmed by the deponent
at 157 Spring Street Melbourne 3000
in Victoria
on 27 May 2024
Before me: Deanna Constantina Ficatas

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Signature of deponent



Signature of witness
of 477 Collins Street, Melbourne

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

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